

October 23, 2007



**TRANSCRIPT**  
**October 23, 2007**

**MONTGOMERY COUNTY COUNCIL**

**PRESENT**

Councilmember Marilyn J. Praisner, President	Councilmember Michael Knapp, Vice President
Councilmember Phil Andrews	Councilmember Roger Berliner
Councilmember Marc Elrich	Councilmember Valerie Ervin
Councilmember Nancy Floreen	Councilmember George Leventhal
Councilmember Duchy Trachtenberg	



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1 President Praisner,

2 Good morning. I apologize for us being a little late. Would everybody please rise?  
3 [inaudible] Islamic Society of the Washington Area in Silver Spring.

4  
5 Imam Faizul Khan,

6 Shalom [inaudible] native God the most merciful and compassionate [inaudible] all of  
7 my servants who call upon me and I will answer your prayer. Let us pray. [Foreign  
8 language] Almighty Lord, lord and master of all lives, the God of Abraham and Moses  
9 and Jesus [inaudible] benevolence, grace and mercy, we have assembled here this  
10 morning in the spirit of cooperation and understanding to express our thankfulness and  
11 see thy blessings as we undergo the trust that has been place upon us. Oh, Lord, in  
12 these difficult and challenging times continue to give us the empowerment to fulfill all  
13 obligations to our fellow citizens and help us to make our county a meeting ground of  
14 conscious and [inaudible] where men and women of different talent may find in each  
15 other the fulfillment of the common humanity. Oh Lord, bless and guide the  
16 righteousness all those that will serve and benefit from thy assistance. Oh Lord, we ask  
17 that you accept our prayer. Amen.

18  
19 President Praisner,

20 Thank you very much. We have a couple proclamations. I would ask Councilmember  
21 Floreen to join me up front and ask our commissioners to join us up front as well. Thank  
22 you. And Mrs. Lieber, why don't you join us up front here too. County Council is always  
23 appreciative when we have so many County residents who are willing to step forward  
24 and accept responsibility on a number of boards and commissions. One of the most  
25 challenging and one where we have been very blessed to have such experts  
26 participating is at the Washington Suburban Sanitary Commission. Unfortunately, all  
27 three of the commissioners have at a different point in time had to step down for a  
28 variety of reasons. So this is our opportunity to thank them for their service to the  
29 County and to the rate payers both in Montgomery and Prince Georges County, for their  
30 professionalism for the dedication and commitment to the important function of the  
31 delivery of quality water and a healthy water and sewer system in this region. So I'd like  
32 to on behalf of the Council -- and I'm joined by Councilmember Floreen who chairs the  
33 Transportation and Environment Committee and serves with me on the WSSC  
34 Leadership Group; I'd like to on behalf of the County Council award this certificate to  
35 first Commissioner Sandy Allen in recognition and appreciation for her distinguished  
36 service and leadership on the Washington Suburban Sanitary Commission and her  
37 commitment and dedication to the people of Montgomery County. And it's signed this  
38 day, October the 23rd day by me as Council President. Sandy, thank you so much.

39  
40 Ms. Allen,

41 Thank you, President Praisner.

42  
43 President Praisner,



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1 Thank you so much. And we have a similar certificate for Commissioner Stan Botts;  
2 same kind of sentiment and same kind of appreciation, Stan. Thank you so much. And  
3 our last commissioner, Marc Lieber, unfortunately now has employment that takes him  
4 out of area during the week. So standing in for him very well is his wife who will accept  
5 this certificate for Marc. Thank you so much. Would any of you -- all of you like to say  
6 something? Sandy?

7  
8 Ms. Allen,  
9 Yes I would like to.

10  
11 President Praisner,  
12 Why don't you come forward and say something.

13  
14 Ms. Allen,  
15 I wanted to thank County Council President Praisner and Councilwoman Floreen, and  
16 all the Councilmembers and staff for your assistance and support throughout this time. I  
17 am very grateful to have had the opportunity to serve the rate payers of Montgomery  
18 County and to also serve the rate payers of Prince Georges County, but I represent the  
19 rate payers of Montgomery County. Wanted to thank former County Executive Doug  
20 Duncan as well for his confidence in appointing me, and I want to wish the new  
21 appointees well. I'm sure with the support they will receive here from the County  
22 Council, there will be tremendous success and continuity in governance at the board at  
23 WSSC. Thank you for the opportunity to speak.

24  
25 Mr. Botts,  
26 I'd just like to echo former Commissioner Allen's remarks and say that's been a  
27 wonderful experience for me as one who embraces servant leadership. This was a  
28 great opportunity to serve. And I would like to continue to put it out that I am about  
29 service. And I love serving my community of Montgomery County and the state, which is  
30 one of the reasons I opted to move on because I get a bigger community serve to now  
31 in the state. But this was an excellent opportunity for me to utilize some of the skills that  
32 I have as a servant leader and as well to practice what is an avocation of mine, and  
33 that's corporate governing. I've learned a lot. I continue to try to do things in those  
34 areas, and I want to also say thanks to all of the Council, present and past, as well as  
35 the former County Executive and the current County Executive for entrusting what I feel  
36 is their faith in me to do what is the right thing for the citizens of Montgomery County  
37 and Prince Georges County. Thank you very much.

38  
39 Councilmember Floreen,  
40 If I could say just one thing. I of course join the -- Marilyn in her praise and thanks to our  
41 commissioners, but I want to say thank you, Mrs. Lieber, for joining us, because I think  
42 one of things that we forget is that with our myriad of public commitments and demands  
43 that are imposed upon volunteers, basically, throughout the County, we forget about the  
44 family burden that that creates. And to have a spouse willing to come here and support



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1 the effort means a great deal. We know how much family time is lost from the variety of  
2 commitments to which the elected and appointed folks associate themselves with. That  
3 is a drain on family life and it's a burden on spouses. So we appreciate your being here  
4 and we're glad that we can celebrate your commitment as well. Thank you very much.  
5 And thank you to everyone's spouse.

6  
7 President Praisner,  
8 Do you want to take pictures? Okay. Okay. Thank you all. I'm so happy that you were  
9 able to -- now we'll go to agenda and calendar changes; Linda Lauer.

10  
11 Ms. Lauer,  
12 On your list of minutes for approval today, we're just deferring October 2, for a week.  
13 And we did receive a petition this week and it was from residents supporting the  
14 renovation and expansion of North Four Corners local park; that's it. Thank you.

15  
16 President Praisner,  
17 Okay, thank you. We do have minutes for approval. Madam Clerk.

18  
19 Council Clerk,  
20 Yes, the minutes of October 9th as well as the closed session minutes of September  
21 18th and 25th.

22  
23 President Praisner,  
24 Okay, is there a motion? Councilmember Leventhal; is there a second?

25  
26 Councilmember Trachtenberg,  
27 Second.

28  
29 President Praisner,  
30 Councilmember Trachtenberg. All in favor of approving the minutes? That is unanimous.  
31 Okay. We'll now move to the consent calendar. Is there a motion?

32  
33 Councilmember Andrews,  
34 [Inaudible].

35  
36 President Praisner,  
37 Councilmember Andrews? Is there a second?

38  
39 Councilmember Berliner,  
40 Second.

41  
42 President Praisner,  
43 Second - Councilmember Berliner. Keep me dangling, folks. Any items that anyone  
44 would like to pull? I would just like to make a comment that we are within the consent



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1 calendar Item G confirming the County Executive's appointment of Jean Banks to the  
2 Housing Opportunities Commission. I don't see Ms. Banks in the audience, but we did  
3 have an opportunity last week to meet with her. She's a delightful woman and appears  
4 very enthusiastic about her new responsibility, and we all look forward to working her as  
5 a member of the Housing Opportunities Commission. With that I see no other lights; so  
6 all in favor of the consent calendar? Unanimous. Unanimous. Thank you all very much.  
7 Okay, we'll now move in to District Council Session. And we are introducing a resolution  
8 to approve use of advanced land acquisition fund, ALARF funds for acquisition of real  
9 property, the Hillmead Neighborhood Park, Phyllis Piotrow Property; Councilmember  
10 Leventhal?

11  
12 Councilmember Leventhal,

13 Thank you, Madam President. I don't want to take a lot of time now since we're just  
14 introducing this. But I hope that Park and Planning will be present when we do act on  
15 this. I understand that we have a willing seller, and that there is -- that puts this in a  
16 somewhat different category than the many, many requests we received from  
17 neighborhoods to acquire virtually every build-able parcel in the Montgomery County a  
18 park. But I do have some concerns about whether we are sending a signal or setting a  
19 precedent here that every build-able parcel might become a park. Virtually every build-  
20 able parcel somebody would like it to be a park. And if we took ever acre of build-able  
21 land off the tax rolls, we wouldn't have any money to build anymore parks or support our  
22 police or libraries or anything else. So I'm interested when we act on this -- and I'm not  
23 stating opposition to this at all, because I think it is different to have a willing seller; and  
24 that's a critical difference from some of the requests that come before us where  
25 someone wants to build on his or her land and the neighbors would prefer that it be  
26 acquired in a way that would probably require an adverse taking. But that's one  
27 question I'll have for Park and Planning. The other questions I'll have for Park and  
28 Planning will include what is their priority-setting mechanism for identifying land in the  
29 County that is to be acquired; and do we have sort of an overall plan for sites in the  
30 County that we seek to acquire -- what was the basis by which we -- that this rose to the  
31 very top of the priority list. And I may have other questions as well, so I think this is not a  
32 pro forma matter. I think this is quite a significant decision the Council makes, and I  
33 think we need to think through it carefully before we act on it.

34  
35 President Praisner,

36 Councilmember Leventhal, the Planning, Housing and Economic Development  
37 Committee had a brief conversation about this parcel yesterday. And I think the packet  
38 speaks to a variety of the issues. But I think it would be useful for us to make comments  
39 about that. Number one, is the issue of the use of ALARF funds being limited or  
40 restricted to parcels that have been identified within the master plan for acquisition?  
41 Interestingly enough, the master plan for the Bethesda Chevy Chase area has some  
42 language that is an umbrella kind of language that perhaps has more flexibility and  
43 would also by use of that more flexible language allow this kind of acquisition without a  
44 specific parcel dedication comment in the master plan allow it to be used. But the



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1 ALARFF -- Article 28 and that issue is a piece. Second piece that the committee raised  
2 was the issue demolition of the house on the parcel and the question about whether or  
3 how that house might be inhabitable, you know, have someone occupying it for other  
4 purposes than just a private owner owning the property. And the third issue was the  
5 issue of reimbursement from an ALARF fund. We have significant resources in the  
6 ALARF fund right now as a result of the state's payment of funds for repayment to the  
7 County of land purchased by Park and Planning for the inner-county connector. There  
8 are also funds that were purchased by other agencies, but specifically about that. And  
9 the third -- the fourth piece being the relationship of ALARFF and our Legacy Open  
10 Space Program which might identify parcels and may have gone through -- had gone  
11 through, and the question of whether parcels were identified either through ALARFF  
12 and master plans, or through the Legacy Open Space process for acquisition. So I think  
13 you have highlighted the reasons why the committee had that more lengthy  
14 conversation, and why there are issues beyond this parcel that the Council needs to  
15 discuss. And, you know, the reimbursement issue has come up in a variety of  
16 occasions. Okay, is -- do we really have a resolution we have to introduce? Then I need  
17 a motion for introduction? No, there is none, Linda? It's just automatically introduced  
18 because it doesn't require that. Okay. Then dually noted, the resolution that appears on  
19 Circle 13 of the packet is introduced. And that action is tentatively scheduled for  
20 October 30. The only other comment I would make is that we were told that the Park  
21 and Planning's relationship to acquire the property does have an October 31<sup>st</sup> deadline,  
22 or else this would not go through. So there is some sense of urgency with our dealing  
23 with it next week. Councilmember Berliner.

24  
25 Councilmember Berliner,  
26 Madam President, thank you; and I appreciate the comments of my colleagues with  
27 respect to this. I by no means profess to be an expert on ALARFF. This will be the first  
28 one that I've been involved with. What I can share with my colleagues is that this has  
29 been an incredibly contentious matter in my community, and that the resolution of this in  
30 this particular manner was perceived by the community to be quite favorable. And my  
31 hope is that we can find our way to address the serious issues that my colleagues have  
32 raised and yet allow this project to go forward as proposed by Park and Planning. I look  
33 forward to the future conversations. Is the PHED Committee going to meet again with  
34 respect to the matter?

35  
36 President Praisner,  
37 We hadn't planned to but we may poll Councilmembers on the committee to see if there  
38 is a recommendation. We were running out of time yesterday because of other items  
39 that were on the list.

40  
41 Councilmember Berliner,  
42 Small other items?

43  
44 President Praisner,



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1 Small other items like BRAC and the growth policy, and school main -- ball field  
2 maintenance.

3 Okay? If there are any other questions that folks may have, if you could get them to  
4 Marlene as quickly as possible and Planning Board staff, Mr. [inaudible], should  
5 probably be here next week for that conversation. We are ahead of schedule and I see  
6 no members of the Planning Board here, so let's take a -- we'll resume at 10:15. They  
7 should be here by then.

8  
9 [BREAK BY COUNCIL]

10  
11 President Praisner,

12 Okay, folks, if we could take our seats and if you could just call Councilmembers please.  
13 Okay, if we can get Councilmembers back -- probably have to let them know that we're  
14 starting. My goal is to take about two hours this morning, maybe a little longer if we're  
15 on a roll and there's a discrete point where we can make a break that we know if we just  
16 keep finishing, we can finish some thing. I know there area some staff complications of  
17 other work that folks need to do, so I'm going to try to be as accommodating as I can.  
18 What I've talked with Dr. Orlin and Mr. Faden about today is how we'll approach today --  
19 or what I think we should do as far as approaching today. We will spend the day going  
20 through the committee's recommendations and the packets as it involves the growth  
21 policy and the revenue measures starting with land-use pieces. And so I'll start off with  
22 the PHED Committee and probably this afternoon is when we'll get to the Management  
23 and Fiscal Policy Committee as far as the revenue pieces. Today is an opportunity for  
24 all Councilmembers, those who are not on the committees, to raise whatever questions  
25 or to request any additional material or information or modification to a proposal so that  
26 the work can be prepared for our packets for next week. Next week would be the kind of  
27 straw vote action process of the Council -- I call it straw vote only in the context of it isn't  
28 the final action, but it is the action by the Council to send the direct -- to direct staff to  
29 prepare the resolution for Council action the following week.

30  
31 Councilmember Knapp,  
32 [Inaudible] next week?

33  
34 President Praisner,  
35 Yes.

36  
37 Councilmember Knapp,  
38 Okay. So today's just learning day?

39  
40 President Praisner,

41 Learning and requesting day, and walking through everything so we pull everything  
42 together. The votes next week are the votes for direction for the resolution. And as folks  
43 know, for the growth policy the action is the resolution. And I've asked staff to make  
44 sure that the resolution is in front of us early so that next week not only would the



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1 content of the, you know, the meat that affects the resolution be in front us for action,  
2 but also the resolution from a standpoint of modifications folks might want to make to it.  
3 It's a chance to look at all of the wordsmithing you might want to do, et cetera; so that  
4 on the following week on November 6<sup>th</sup>, everything will be -- we'll know everything that  
5 will be in front of us and there will be the actions taken on the resolution as well as the  
6 action taken on the legislation. So that's the goal. And I know that the -- it's been some  
7 time since individual Councilmembers not on the committees have been looking or  
8 working through this, and there are a couple of places where the committees did  
9 not you any modifications to it. So the following week on November 6th, -- we'll know  
10 everything that will be in front of us and there will be the actions taken on the resolution  
11 as well as the action taken on the legislation. So that's the goal. And I know that it's  
12 been some time since individual Councilmembers not on the committee have been  
13 looking or working through this, and there are a couple of places where the committees  
14 did not come to closure as far as specifics where there are three different views;  
15 especially on the PHED Committee. And I think there are only maybe one or two places  
16 where that exists. They are significant, but they're one or two places only. Staff has  
17 prepared the packet for us but they also prepared an update, supplemental packets on  
18 the growth policy and on the MFP. There're also -- we've also been given a very small  
19 memo that lays out the Board of Education actions from last night, and Mr. Crispell is  
20 here as well as he has been in a variety of our meetings. Thank you, Bruce, it's good to  
21 see you. So I think everybody should have the original packets, the addendums are  
22 updated, as well as the Baord of Education packet.

23  
24 Mr. Orlin,  
25 I can go through this real quick. There are really five things you need for today. In no  
26 particular order, one is the Agenda Items Four and Six -- there's a packet for that. But  
27 use the one that says updated; the one that doesn't say that just "wow" it immediately;  
28 don't look at it because this one totally replaces that.

29  
30 Vice President Knapp,  
31 That's what I read last night because it was in the packet.

32  
33 Mr. Orlin,  
34 Well this is the same thing except it adds a few things.

35  
36 President Praisner,  
37 Well people may have written notes.

38  
39 Mr. Orlin,  
40 If you've written notes, then don't throw it away.

41  
42 Vice President Knapp,  
43 Don't get completely rid of it, just -- .





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1 Mr. Orlin,

2 Secondly, as Ms. Praisner pointed out, there is an addendum from the school board's  
3 recommendations from last night. Third, there's a color copy of the PAMR chart, which is  
4 actually in the updated packet for today on Circle 23. Fourth, there's the regular packet  
5 for Agenda Items Five, Seven and Eight, which you should hold onto. And there's now  
6 also a supplementary packet for Five, Seven and Eight. The latter two that I mentioned  
7 are having to do with the impact taxes and the recordation taxes we're doing later today.

8  
9 President Praisner,

10 All right. Now because we're going to deal first with the growth policy piece, the most  
11 important piece right now would be Agenda Item 4, 6, October 23 work session  
12 updated. And if folks don't have that, raise your hand and Glenn will get you a copy.  
13 Everybody have that? Yeah, George.

14  
15 Councilmember Leventhal,

16 Does not the school board's memo, which I don't have, relate to the public school  
17 adequacy test.

18  
19 President Praisner,

20 Yes. I thought they distributed those. I was going refer to that next, George. Does  
21 everybody have what they need?

22  
23 Councilmember Floreen,

24 Can you go through that list again?

25  
26 President Praisner,

27 Okay let's start. Start again. We have Agenda Item Four, Six, October 23rd, Work  
28 Session Updated?

29  
30 Mr. Olin,

31 Correct.

32  
33 President Praisner,

34 Okay, everybody except Duchy. Duchy needs one of those.

35  
36 Mr. Orlin,

37 Secondly is the addendum for the school board's recommendations.

38  
39 President Praisner,

40 That's a small one. Thirdly the map the PAMR.

41  
42 Mr. Orlin,

43 The color copy.



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1 President Praisner,  
2 Color copy.

3  
4 Mr. Orlin,  
5 Fourth you should have received in your packets on Friday, which was the Agenda  
6 Items Five, Seven and Eight, for the Impact Tax Recordation Tax.

7  
8 President Praisner,  
9 Yes.

10  
11 Mr. Orlin,  
12 And finally was handed out this morning also a supplementary packet for five, seven  
13 and eight. You need that one too.

14  
15 President Praisner,  
16 Five, seven, eight, October 23rd supplementary packet. Okay? All right. We're all in our  
17 places. And we all have our papers. Anybody else need anything? All right. With that in  
18 mind, Mr. Hanson, Mr. Moritz, welcome. I see other staff from the Park and Planning  
19 here, and staff from the Executive Branch as well. Royce, are there are any introductory  
20 comments you want to make?

21  
22 Mr. Hanson,  
23 Let me just make a couple. One is that probably the most contentious issue that you  
24 have to deal with will be the policy area mobility review piece. When you get to that, if  
25 you get to that.

26  
27 President Praisner,  
28 We will.

29  
30 Mr. Hanson,  
31 There're some things I would like to say about it because I think that we made some  
32 initial assumptions about how easy it would be to understand what we had done, and it  
33 turns out that it wasn't that easy. But I think -- .

34  
35 President Praisner,  
36 To understand.

37  
38 Mr. Hanson,  
39 To understand. It wasn't easy to do either. I think we can provide you with a better  
40 explanation of that and would like as we get to that to have the opportunity to do so. It  
41 will also provide an opportunity to comment on the Executive's suggestions in this area.  
42 Overall, what I want to emphasize is that growth policy has several interrelated parts. It  
43 does some things that have not been done before. It does more of some things that  
44 have been done before. The key parts of it are the provision that in approving a



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1 subdivision and in using the Adequate Public Facility's Ordinance, there are two tests  
2 for transportation adequacy. There's the policy area mobility review, which deals with  
3 the transportation capacity facility's service in a policy area. And that is essentially a  
4 pass-fail test. As modified later by the Board, it's a -- approaching fail for some areas. In  
5 addition, there is local area transportation review for all projects. And that's the part that  
6 everybody is familiar with that has been used for the last several years. The local area  
7 transportation review addresses the problems of the immediate vicinity as far as the  
8 adequacy of facilities are concerned. It deals with a range of signalized intersections.  
9 And requires that certain measures be taken to make sure that these function  
10 adequately concurrently with and after a development has occurred. In addition, there is  
11 a transportation tax and a school impact tax. These are system taxes. And they're  
12 based on the marginal cost of providing the transportation and school facilities that  
13 would support that increment of development; not necessarily that specific  
14 development, but that increment of development. They are a system tax that can be --  
15 the revenues from which may be used anywhere in the system. The amount of taxation  
16 in these categories has been increased to address marginal costs. The PHED  
17 Committee's recommendation was to put it at 90 percent of those costs. And that's  
18 really -- .

19  
20 President Praisner,  
21 MFP Committee.

22  
23 Mr. Hanson,  
24 MFP Committee. And that's a judgment for the Council to make. Clearly it's a policy  
25 judgment and how much -- what the tax rate should be. In addition, if a project fails, the  
26 transportation -- the policy area and mobility review test, it is required to mitigate a  
27 hundred percent of its trips. That is a very substantial requirement. It is a tougher  
28 requirement than existed in the old policy area transportation review, substantially  
29 tougher. If a project is approaching a condition of unacceptable service in  
30 transportation, it must mitigate some proportion of its trips. We have made one  
31 recommendation on that. The PHED Committee has made a different recommendation.  
32 And similarly with schools, if a person -- if a project is in an area where these facilities  
33 are inadequate, in order to move ahead -- in order to proceed before the public has  
34 provided those facilities, then it also must mitigate by a payment based on the number  
35 of students that it would generate. So the moving parts of the system then are the policy  
36 area mobility review test which deals with the area and the overall or average capacity  
37 or service that is provided there by roads and transit. The local area of transportation  
38 review, which focuses on the immediate vicinity and making things work in the area of  
39 the project, the system-wide taxes to deal with the impact on transportation and  
40 schools, and then the mitigation requirements for anyone who proposes to accelerate its  
41 project ahead of the provision of facilities by the public sufficient to support that project.  
42 So that's sort of in a nutshell the principal components of the program. There -- as you  
43 go through it, there are other wrinkles and provisions but those are the key elements.



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1 President Praisner,

2 I think that was very helpful, Royce. I appreciate that. It's helpful for not just  
3 Councilmembers but broader than the Councilmembers, I think it's helpful for the public  
4 and folks to see that in the context. The only other comment that I would make relates  
5 to the resolution and work plan or items that require additional work. Every growth policy  
6 that I've seen in the years that I've been here and those before that has incorporated  
7 tasks for follow-up work either because something is not right at that point for action or  
8 because the Council or the Planning Board or the Executive is recommending that  
9 something else be looked at. Furthermore, there are a couple items where in the  
10 process of our conversations, the suggestion has been made and the need has been  
11 identified for regulations to be updated or created that would better support the  
12 implementation piece. As with any policy that is adopted, the implementation is the  
13 issue. And the Council in the delegation of that responsibility either to the Executive  
14 Branch or to the Planning Board with their unique and discrete responsibilities is  
15 assuming that certain things will happen. And the implementation often is improved  
16 when there are regulations in place that help everyone to know what the tests or the  
17 measures or the process will be. So in the area of -- the other comment I wanted to  
18 make is we had a healthy conversation about the difference between trip reduction and  
19 trip mitigation; terms that we tend to use interchangeably but are very different. And in  
20 the mitigation area there was significant discussion and identification of a need to  
21 improve on or work on the issues of trip mitigation and what might be required and what  
22 evaluation might be going on from a standpoint of confidence level that the mitigation is  
23 actually a meaningful mitigation. So that may also generate and has generated some  
24 work plan items that have less than a two-year timeframe from a standpoint of the  
25 committee's recommendations that the Council see something sooner than the two-year  
26 cycle that has been traditional as far as the growth policy.

27  
28 Mr. Hanson,

29 There are several of these items. And two that I particularly want to mention and didn't  
30 because they did not seem to be controversial. But they're very important. One of those  
31 on the interim work program would be the development of the sustainability or the  
32 sustainable quality of life indicators working with the Executive, which is also interested  
33 in an indicators' program to bring those back to the Council as soon as we can. The  
34 other, which is very much related to sustainability and is also related to the issue that  
35 you raised with regard to how things get implemented is the issue of design excellence.  
36 And it is important, I think, to include in the resolution that you adopt Council support of  
37 moving toward a major emphasis on the excellence of design which has in addition to  
38 its overall importance, the ability to also address some of the capacity problems that  
39 exist, particularly with transportation infrastructure.

40  
41 President Praisner,

42 Vice President Knapp.

43  
44 Vice President Knapp,



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1 Thank you, Madam President. I want to thank the Chairman for his overview, because I  
2 agree, I think that was actually very good for us and very good for the folks who are  
3 listening in. And that actually addressed the first question I was looking at as we set the  
4 stage for today, which was what are we trying to achieve? And I think you laid those  
5 pieces out pretty well. The next piece I wanted to try and see if you could kind of  
6 encapsulate before we start looking at the levers that we're moving is over -- I don't  
7 know, we've had a growth policy for 20-plus years, and each one of them has some set  
8 of tests -- some set of criteria. And I'll be honest, in the five years I've been on the  
9 Council probably some of the most dissatisfying activities we've undertaken have been  
10 action on the growth policy.

11  
12 President Praisner,  
13 Or inaction.

14  
15 Vice President Knapp,  
16 But it's always been unclear to me what problem we were specifically trying to fix and  
17 how we knew we were actually fixing it, because we were changing things, but it was  
18 never clear to me in what context we were changing things because we didn't know  
19 what hadn't really been working in the past. And so I just wanted to try kind of in the  
20 same context that you just gave the overview; as you or as the Planning Board kind of  
21 began its process, what did you look at the outset to say what wasn't working relative to  
22 the tests or pieces we had in place before, and how did you know it wasn't working?  
23 Because I get a sense sometimes, especially as this County has grown, you have more  
24 congestion than we had before. We can all -- we all faced it on the way in today.  
25 Because we had more doesn't necessarily mean that the test that was used was the  
26 wrong test. The numbers may be exactly what the numbers were it's just more than it  
27 was before so it feels like we have more congestion, which we do. And so I guess if you  
28 could give us some sense as to what did you see out there that wasn't working; how did  
29 you know it wasn't working; and what are some of the concrete examples of that,  
30 because I think that's import as we start to figure out which levee we're trying to pull to  
31 affect which outcome, how that goes back to whatever things you saw at the outset.

32  
33 Mr. Hanson,  
34 Let me make just couple of comments and then I'll turn to Karl because he directed the  
35 staff work that really got into the detail in this area. In general, from the adoption of the  
36 Adequate Public Facilities Ordinance in the 1970's through the establishment of Growth  
37 Policy in the 1980's and on, one of the principle functions of both the ordinance, when it  
38 was operating solely as a regulatory measure, and the policy that's tried to provide  
39 guidance to the administration of the subdivision process, has been to either -- one can  
40 look it either as staging development. But I think it's probably most accurate to say to try  
41 to achieve concurrence between private development and the provision of public  
42 facilities to reduce the lag time that often occurred between the production of housing or  
43 employment projects and the provision of the facilities to serve them. This is an inherent  
44 problem in the development process because private development tends to occur



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1 incrementally in relatively small batches, whereas major public improvements are  
2 lumpy. And we fund them in big chunks so that the problem was trying to get these  
3 things coordinated. As the County was developing green fields, essentially, in the '60's,  
4 '70's, and '80's, when most of our development was on vacant land, the issue was are  
5 there any facilities at all? So the idea was to make sure that sewer and water that roads  
6 that schools and other facilities were available when the development needing them  
7 occurred. As we have moved to a smaller proportion of green field development and  
8 more develop -- redevelopment in infill in areas, we have moved from the question of is  
9 the stuff there at all to does the stuff that's there have the capacity to carry or serve the  
10 new growth that is occurring. Now, at the same time of course, growth is occurring  
11 outside the County and using transportation facilities, in particular, and behavior is  
12 changing on the part of the public. There are more cars per household than before;  
13 there are more trips per household than in the past. So some of the congestion of  
14 facilities -- in fact, a large percentage of the congestion of the facilities is not the result  
15 of new growth but the result of both changes in our behavior and changes that are  
16 occurring outside our jurisdiction. So the problem has become more complicated than it  
17 was. So in part, the problem that we're dealing with is a problem of trying to adapt to  
18 new kinds of circumstances that we're confronting, and trying to think about that  
19 prospectively is how we can deal with it in the future. And one of the problems that we  
20 have been dealing with or trying to address is the advent of transit and the -- helping us  
21 achieve the policy objective of moving more and more toward the use of transit --  
22 increasing the modal split. There are other reasons for doing this, and this gets back to  
23 the sustainability question is that, I think, local jurisdictions and states all over the  
24 country are recognizing that there are important things that we can do that address the  
25 reality of climate change, and of environmental quality as well. So trying to evolve a  
26 system that moves away from being anchored in the adequacy of a system -- still trying  
27 to achieve that, but moving more toward one that promotes sustainable development is,  
28 I think, one of the kinds of problems that we're trying to resolve. I won't pretend to you  
29 that we have established a perfect set of answers to those issues. What we've tried to  
30 do here is to get started so that we can develop an improvable product, and people  
31 have been very generous in suggesting improvements that we could make.

32  
33 President Praisner,

34 All right. With that, I thank you again and thank you for the question. Karl wanted to  
35 comment?

36  
37 Mr. Moritz,

38 I was only going to add -- to add that one of the things that we looked at originally was  
39 do we need a policy area of transportation test at all? And in fact we used area-wide  
40 measures of transportation adequacy for more than just growth policy; we use it also for  
41 master planning and other applications. And so it is important for the County to have a  
42 test for area-wide transportation adequacy that we agree on, if not for the growth policy  
43 itself but for these other applications. Then second, we've talked about whether or not  
44 we needed it for growth policy, and that comes into a theme that the Chairman



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1 mentioned, which is what we've decided to do to change the growth policy to reflect the  
2 fact that we are now in an infill environment, that we're no longer solely a green field.  
3 And one of the aspects of that really is this two-tiered aspect that both tests -- the  
4 school test and transportation test show. And that is that there is a threshold over which  
5 if a policy or a cluster goes it's worse than we'd like, but it's not so bad that a drastic  
6 action needs to be taken. And in that case, the Planning Board has recommended steps  
7 that should be taken both on the transportation side and school side that development  
8 ought to be required to do when it's in a situation before it gets, you know, drastically  
9 bad. But then also have a point where we're saying, no, this is as bad as it's really ought  
10 to get. And at this point some really major things ought take place, either on the  
11 transportation side -- one hundred percent mitigation of trips, or on the school side, a  
12 moratorium on new subdivision approvals. That two-tiered aspect I think does recognize  
13 the nature of infill development because it provides sort of this warning sign earlier on  
14 that things are getting inadequate, so that not only does the private sector begin kicking  
15 in contribution but a warning sign for the public sector that this an area where new  
16 resources need to be put.

17  
18 Vice President Knapp,

19 If I heard you right then this wasn't so much we're trying to fix a problem but really is a  
20 migration from looking at adequacy into identifying a framework for sustainability?

21  
22 Mr. Hanson,

23 That's one aspect of what we've done, yes. But as Karl said, we were also looking at  
24 very tangible problems, which is do we need a transportation test for areas. And I think  
25 both the staff and the board's conclusion was that we do that that is a very useful thing  
26 to have. It provides a framework for the balance of roads and transit for instance, and  
27 the balance between transportation and land use; which we're always trying to achieve  
28 in the development of a master plan. One of the problems we were also looking at is, all  
29 right, if, as I said, the provision of public facilities tends to come in lumps, how do we  
30 fund that? And who should be responsible for funding some of that facility cost, and  
31 trying to figure out what is the fair allocation of responsibilities for it? And where we  
32 came down was to look at the marginal costs that these facilities impose and to try to  
33 make sure that we were setting a tax rate that would produce the revenue to keep the  
34 system up to date as well as specific elements that might be directly around a particular  
35 project.

36  
37 Vice President Knapp,

38 So in the area of the transportation then you went back and looked at our previous  
39 tests, determined that under those tests our current transportation infrastructure is not  
40 adequate, and so in addition to looking at sustainability your proposal also addressed  
41 how to fix the existing problem?

42  
43 Mr. Moritz,



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1 I'm not sure I would call it how to fix the problem. I mean the role of the test has been to  
2 highlight where the problem is and to determine how to measure the problem.

3  
4 Vice President Knapp,  
5 But we had a -- so we had a test though which yielded this problem; so did that mean  
6 that the previous test wasn't an adequate test?

7  
8 President Praisner,  
9 I wouldn't say that we had a test that achieved or resulted or caused the problem. We  
10 probably had a test that didn't respond adequately in its sufficient response time to be  
11 able to get in pace with the problem.

12  
13 Mr. Hanson,  
14 There are two aspects of the problem. One part of the problem is caused by growth.  
15 Another part of the problem is caused by other things. And in some cases, a larger part  
16 of the problem is caused by other things. School capacity is a very good illustration of  
17 this. Growth generates somewhere around 15 percent of the overcapacity issues with  
18 schools. The other 85 percent is generated by turnover in neighborhoods.

19  
20 Vice President Knapp,  
21 And we'll come back to this. I guess my whole -- especially since this is kind a question-  
22 and-answer day, and I'll have more questions, but I wanted to make sure as we go  
23 through it that we have some understanding of we started here, we had this test, this  
24 policy that got us to this result. Then whatever the proposals either Planning Board or  
25 what's coming out of committee, we would then have some understanding that we've  
26 made this change to the variable which we think addressed this problem and how. And  
27 if it's a sustainability than that's a different criteria. If it's actually going back to address  
28 an existing problem then that's another criteria. I just want to try to make sure that at the  
29 end of the day we can stand up in front of people and say here's where we were, here's  
30 why it didn't work, here's what we changed, here's why we think it works better, and  
31 here's what gets it to some more specific outcome.

32  
33 President Praisner,  
34 Just from my prospective the frustration with the original growth policy that I was dealing  
35 with or the Council was dealing with was a combination of things. One was a  
36 transportation test with a black box that raised significant questions about the  
37 confidence and comfort level with it as being understandable by everyone. The second  
38 was the myriad of exclusions and exemptions that continued to be added year after year  
39 to the policy. Third probably is the changing dynamics and probably a policy that did not  
40 move with the time to look at other priorities like the mobility piece and giving the kinds  
41 of -- looking at some of the issues like sustainability and quality of life and measures.  
42 Certainly there's no discussion of design or anything within that. Finally, I think part of  
43 our conversation in the PHED Committee was a discussion of trying to get at the issue  
44 of definition of adequacy. What is the threshold level that is adequate or acceptable for





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1 us, and it may vary depending where in the County you are and what the overall goals  
2 of the master plan may be. And that speaks to, I think, some of the work that committee  
3 is anxious for Planning Board and others to help us to move on is more in the definition  
4 of you have a definition of adequacy from a standpoint of transportation that we looked  
5 at and we'll get to that. And I think some of this conversation will be more helpful during  
6 that discussion that relates to that specific item. But the focus -- the overall focus on a  
7 growth policy goes back to Royce's point about trying to have infrastructure and  
8 development, which is that piece of the activity, whether it's traffic or students in the  
9 school, focusing on that piece of it and trying to put the infrastructure where it is  
10 identified that it is needed, and we've tried to push more towards the transit  
11 infrastructure than the -- than additional lanes on roads; trying to have them more in  
12 sync such that the -- there is an acceptable tolerance level of the situation to the extent  
13 that growth affects the situation. We have several lights. Councilmember Floreen.

14  
15 Councilmember Floreen,

16 Thank you, Madam President. It has indeed been an interesting conversation in the  
17 PHED Committee on at least these test issues. And I look forward to the conversation  
18 that we're about to embark upon now. I kind of wanted to follow up on Mike's comments  
19 and observations and questions. And really Mrs. Praisner has just touched on it as well.  
20 I think this is all about coming to some community agreement of adequacy, I think. And  
21 I'm not sure that we have quite -- we're at the point of agreeing on adequacy. The  
22 school's section of this conversation is relatively straightforward. There are children that  
23 needs seats, there are buildings that they go into, and you can -- there are predictions  
24 about child yield. We know what things cost more or less. It's pretty much a unit by unit  
25 calculation. The issue I think that is much harder and, Royce, you've alluded to it and  
26 we've struggled with it is the transportation question. And I think we have to be honest in  
27 talking about some of the points you've mentioned earlier. And Karl certainly alluded to.  
28 This helps us -- how does this help us highlight where the problem is, and how does this  
29 help us highlight what the solution is. We're focusing a lot on tests here. But the real  
30 question is what is the problem and how are we solving it? And certainly the issue about  
31 child yield for school capacity; 15 percent of the burden on our schools come from new  
32 development, 85 percent from existing communities. That's a point. Our challenge is  
33 understanding the problems that we're attempting to solve in the transportation front.  
34 And we are really kind of twisting ourselves, I think, to find a test here. Without being  
35 clear about what the problem is, and I hope that as we work through this, you help us be  
36 clear about what our determination of adequacy really should be. We'll talk more about  
37 this as we get into the details. But the question of what is adequate -- we're able to do  
38 that in the school system, and I think we have to confront the issue of adequacy in  
39 transportation as well, and whether or not a one-size-fits-all approach is the right  
40 approach. The concern I have with the road that we're undergoing here and we'll talk  
41 about the fees and taxes and costs, charges to be associated with our decision-making  
42 as well, is what is the tipping point where we come up with -- without a clear  
43 understanding of what the problem is that we're solving. We're generate income  
44 perhaps but do we -- or changes in some behavior. But do we know when we have



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1 achieved success? Do we know when someone has passed a test? Do we know what  
2 is that moment in time? Or can we be honest that we're probably not going to see it?  
3 That is my challenge in working through all of this. How does it relate to our economic  
4 development initiatives? How does it relate to our affordable housing initiatives? We've  
5 heard comments from the County Executive on some of this. How does it relate to our  
6 social service obligations and objectives? How does it relate to our master plan  
7 objectives? We are mostly built out as a County. Most of the roadway infrastructure is in  
8 place, not all of it, but most of it. The transit initiatives -- how does this really fit in with  
9 the reality of transit as we predict that it will be available anywhere between four and six  
10 years depending upon which timeframe you choose? We really need your help on these  
11 objectives. How do we address the smart growth issues? We will continue to discuss  
12 these things here and in committee and with you. But this is the time where we set  
13 policy that will constrain or facilitate the achievement of public policy objectives at the  
14 same time that we're addressing these other tests. One of the things that I initiated  
15 some years ago, and I think it continues to be helpful, is the list of the intersections or of  
16 problem areas that we need to worry about. I think it's been helpful to have that clear  
17 and public statement of where we're failing. And what are the contributing -- and what  
18 do we need to do about it? And I think that's probably the most helpful thing is we think  
19 about our infrastructure obligations and how we can cobble together a plan to pay for  
20 them. But there has been little talk of that in this conversation, and I wanted to reiterate  
21 the importance of that. I really think at the end of the day that's what matters. What are  
22 the solutions that are real and achievable out there? And I think we -- that is the point of  
23 this. What is adequate? And so I ask that we continue to keep these elements in mind  
24 as we work through this conversation. That's what really matters here -- balance, equity  
25 and adequacy. And we have some tests that we're going to talk about. But the real  
26 question is what is adequacy? And I'm glad the Mrs. Praisner mentioned that; it certainly  
27 was a big issue in our committee conversation. And I think we need to be very clear.  
28 And I would like -- when we get to the transportation stuff if you can talk some more  
29 about that when we get there, Royce.

30  
31 Mr. Hanson,  
32 We'll be happy to do that.

33  
34 President Praisner,  
35 I have a couple more lights and then I do want to get on to the actual discussion.  
36 Councilmember Elrich is next and then Councilmember Ervin.

37  
38 Councilmember Elrich,  
39 I think -- I don't look to any test to solve the problem because the problem is really a  
40 disconnect between how we've grown and how we're going to continue to grow and our  
41 ability to provide some kind of infrastructure to support it. I think, and Royce alluded to  
42 it, but I think that our policy is willfully shortsighted and not fully considering the impact  
43 on global warming and CO2 output. And I don't know how you do a growth policy in this  
44 day and age without being conscious of the impacts on everything else. I mean you can



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1 pick up a newspaper almost everyday where they talk about the role that the cities have  
2 to play globally in addressing the global warming issue. It seems that the evidence is  
3 mounting, and that things need to be done quickly. And yet, you know, those of you who  
4 were at the COG presentation know that the projections for this area show anywhere  
5 from 48 percent increase in CO2 by 2030 under existing circumstances; and under best  
6 circumstances a 16 percent increase in CO2 by 2030. Now we're supposed to be  
7 talking about dropping, you know, the scientific thinking is 1990 levels. Well why should  
8 metropolitan areas a significant part of the population of this country; it's not insignificant  
9 the population that lives here. And how we divorce ourselves from any responsibility  
10 toward moving in that direction absolutely escapes me. And how we have a policy which  
11 continues to move us in the exact opposite direction and that when you talk about  
12 mitigation and we quibble over 100 percent mitigation or how much trip reduction  
13 knowing that the failure to achieve any of those things pretty much guarantees that we  
14 slide absolutely in the wrong direction. I don't get it. I don't get how we talk about our  
15 commitment to the environment or anything else and then adopt policies that are the  
16 same old same old that are business as usual. You know, we worry about a power plant  
17 in West Virginia but we're not worried about the stuff that's in our backyard. And I think  
18 those need to be integral parts of this policy. And they can and they're going to have to  
19 be addressed. At some point somebody is going require mandatory reductions either at  
20 the state or federal level because it will dawn on somebody that the crisis is serious  
21 enough that something has to be done. It seems to me that the growth policy is an  
22 opportunity to begin that transition now rather than to go on a few more years and then  
23 have it imposed on us later. I don't see how it's not inevitable. But I want to say  
24 something about the policy. The policies have got to work and they've got to make  
25 some sense. And I continue to struggle as you know with tests that I don't think are  
26 really adequate tests. And we'll go into a detailed discussion I'm sure, on some of the  
27 tests. But Nancy raises the issue of what we call adequate. I looked at, you know, took  
28 your charts and I looked at your relative speeds through the county. And, you know,  
29 under your charts and under this system, it's adequate to have a ten mile an hour speed  
30 on a road if you have a 6-mile-an-hour speed on a bus in a policy area. If that's  
31 reasonable, I mean, we should go tell our constituents that we think it's perfectly  
32 reasonable to drop speeds in the County to under ten miles an hour and that would be  
33 perfectly fine. And it will be perfectly fine to have buses going at 6 miles an hour. I think  
34 that the community would have some resistance to that notion of adequacy. Now the  
35 whole County is not there yet, but we're clearly moving that direction and when you take  
36 these numbers and do the out-year projections, the County doesn't get better even with  
37 these tests -- .

38  
39 President Praisner,  
40 Marc, if we could -- .

41  
42 Councilmember Elrich,  
43 Result is worse.



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1 President Praisner,  
2 I would appreciate it if we could deal with that discussion with the tests when we get to  
3 that point, if you don't mind.

4  
5 Councilmember Elrich,  
6 I'll wait.

7  
8 President Praisner,  
9 Okay, thank you. Councilmember Ervin.

10  
11 Councilmember Ervin,  
12 I'll actually wait until we get to the point in that.

13  
14 President Praisner,  
15 Okay, great. Thank you all very much. Then let's move on to the first issue which is the  
16 schools and public school adequacy tests. And I'm working from the updated work  
17 session packet for four and six. On page three is the background information that  
18 discusses the Planning Board's recommendations, the pre-2004 test, the current test,  
19 and the Planning Board's proposed recommendations which further tighten the school  
20 adequacy test. Because it looks at each individual level of school -- elementary, middle  
21 school and high school, and has a -- it eliminates the borrowing capacity from clusters,  
22 which is part of the -- within -- borrowing from a budding or adjoining cluster which was  
23 part of the current test at the high school level at least. It eliminates that at the high  
24 school level. And it does have modifications as far as the growth policy capacity. The  
25 PHED Committee recommendations are slight modifications on the Planning Board's  
26 recommendations. But they basically are in many ways consistent with those. We also  
27 had the benefit of the school system. And you have a packet from the school system on  
28 those issues. The proposal in front of us uses -- no longer uses a growth policy capacity  
29 level as adopted by the County Council as a separate growth policy capacity  
30 measurement. It now moves in both the Planning Board's recommendations and in the  
31 PHED Committee to using the school system's program capacity, whatever that  
32 program capacity may be; at this point using in this test 23 students in a regular  
33 elementary school classroom, 21.25 students in a regular middle school classroom and  
34 22.5 students in a high school classroom. As you know, special education and other  
35 special programs have within those programs more stringent and limiting requirements  
36 as to the number of students that are allowed for the delivery of that program. It would  
37 be measured at each of the levels. So for example, a development would be measured  
38 both -- would be measured at each point as to the yield or whether there's a situation in  
39 the area that might cause a problem for elementary school separate from the issue with  
40 middle school separate from the issue for high school. And the question then becomes  
41 at what threshold level do you require a school facility payment? And it is at that point or  
42 at that issue that individual members of the committee are either consistent with  
43 Planning Board's recommendation or are -- one could argue more stringent than the  
44 Planning Board's recommendation as far as the threshold level when the school



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1 facility's payment is required. My recommendation was at 105 percent of program  
2 capacity. The Planning Board, I believe, is at 110 percent of program capacity, which is  
3 also Councilmember Floreen's recommendation. And then the requirement for a school  
4 facility's payment, the Planning Board and Councilmember Floreen are recommending  
5 135 percent at the threshold level for a residential moratorium. My recommendation is at  
6 120 percent. Councilmember Elrich's recommendations are a little more complicated.  
7 He recommends the 105 percent of program capacity as the threshold for the school  
8 facility's payment, and 115 percent for moratorium unless the development directly pays  
9 for a new permanent capacity equal or more than needed for the students generated by  
10 the development. And if any development would push a school above 115 percent, or if  
11 it is already above 115 percent of capacity, then he would ask MCPS to identify a  
12 capital improvement program to be funded by the developer or make a decision to  
13 assign the students to another school so that existing capacity is not exceeded. One  
14 comment I would make on that point is that the most dramatic change here, which all  
15 three of us have supported as well as the Planning Board, is using the school system's  
16 program capacity. The question that came up about that is the issue of the fact that  
17 program capacity at a school may change from one year to another depending upon a  
18 decision made by the school system to move a program or to move a special class, and  
19 the capacity of the school therefore is reduced just by that decision. So for example,  
20 one year the classroom may have a regular classroom with 23 students as a level of  
21 capacity and the next year a special education class with a nine student limit may be  
22 placed in that classroom, in which case the program capacity of that school has just  
23 been reduced by the difference between the -- by 14 students. And that then obviously  
24 triggers a different kind of situation as far as the school system and the growth policy is  
25 concerned. I'm going to go through each of the school issues and also see if our staff  
26 has any comments, and then let the lights that are on and the questions be about any of  
27 those points within the school tests. The issue became one of what timeframe for the  
28 test. And that's true both for transportation and for the school test. And the Planning  
29 Board is recommending five years of enrollment be projected and five years of capacity.  
30 The committee majority on this -- Councilmember Elrich and myself are recommending  
31 a four-year test be used for both, actually. So we would be looking at enrollment in the --  
32 the projection of enrollment in September 2011. Councilmember Floreen recommends  
33 the five-year test going into effect next July, so that would be September of 2013. And  
34 the rationale for the four years relates to the CIP, which is looked at every two years in a  
35 comprehensive nature. And also an expectation or hope that we can make those  
36 modifications, if there are any, in the cycle of the Capital Budget. And also in some kind  
37 of timeframe that marries the improvement with the potential build-out of a development,  
38 especially a housing development. What we found over time, in my view, is that the  
39 housing yields, and Bruce is here to respond to any questions, that often the houses  
40 come in with a higher yield at the beginning of development at a faster pace than is --  
41 was originally expected. The question about using staging ceilings has come up in a  
42 variety of places, and the majority of the committee -- Councilmember Elrich and myself,  
43 recommend establishing some kinds of staging ceilings for each cluster at each level  
44 and calculated in terms of seat capacity that would be work that would need done.



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1 Councilmember Floreen does not recommend that. There is also the issue of whether  
2 there should be a school facility's payment and what that calculation should be. The  
3 recommendations of the committee are consistent with the Planning Board's  
4 recommendations. Councilmember Floreen did not take a position on this matter. The  
5 other issue was one related to how you use the school facility's payment. The school  
6 system is anxious to be able to use the payment anywhere in the County at any level  
7 anywhere in the county. Councilmember Floreen is supportive of that recommendation.  
8 Councilmembers Elrich and myself recommend that the payment be used to add  
9 capacity in the cluster where the problem is at the level where the problem is. The final  
10 issue that came up was a diminimous (sic) development which is, is there a role for  
11 exempting small residential developments from those tests? And Councilmember -- this  
12 is the area where there is no committee recommendation. Councilmember Floreen  
13 recommends exempting developments of ten units or less. Councilmember Elrich  
14 recommends exempting developments of three units or less, and I did not recommend  
15 exempting small residential developments from the test. The Board of Education had an  
16 opportunity last night, and the addendum that we've been given has the  
17 recommendations from the school system summarized in the bullets. I haven't had a  
18 chance -- I don't think anyone has to have read the superintendent's packet, which is  
19 part of the rationale, I guess, that the board used. I don't believe the resolution or the  
20 positions are different from the superintendent's. Are they, Bruce? No. Okay. But you  
21 have the packet in front of you with the bullets. The school system recommends five  
22 years not four. They don't support using staging ceilings. They're opposed to applying  
23 the test at the individual school level, and they're not a opposed to a diminimous (sic)  
24 exemption of three or fewer units. And they support increasing the school's increment to  
25 the recordation tax from 250,000 to 410,000. That issue will come up this afternoon  
26 when we discuss the MFP Committee's recommendations as far as the recordation tax.  
27 Have I missed anything on the schools that I needed to comment on, Glenn?

28  
29 Mr. Orlin,  
30 I don't think so.

31  
32 President Praisner,  
33 Okay. Then we do -- okay. I just want to make sure.

34  
35 Mr. Orlin,  
36 I don't think you have.

37  
38 President Praisner,  
39 There are some lights. And I will go now to Councilmember Ervin.

40  
41 Councilmember Ervin,  
42 Thank you very much. I want to talk about the practical applications and implications of  
43 the committee's recommendations on the school's test to Wheaton and specifically to  
44 Einstein High School I'm referring to. And I also want to talk about the practicality of this



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1 policy recommendation and how the school system right now, which has this, you know,  
2 Holy Grail of a queue for their 6-year CIP. And if the schools that have been queued up,  
3 they never changed that queue. So for example, I don't know where Einstein High  
4 School is in the queue for, you know, improvement of that building. But that is a very  
5 small high school. And all the high schools in the County before a certain date looked  
6 different and their capacity size is different. So what's the practical application of this  
7 policy to the reality of what is going to happen in Wheaton, and the reality of the schools  
8 and the school system's queue and it's CIP? Because it seems to me like these  
9 decisions are being made in a vacuum. So if a school, Einstein for example, is over  
10 capacity and the payment -- where will the payment go? And if it went into the cluster --  
11 to the Einstein cluster; if none of those schools are queued up in the right way then  
12 where is the money going to go?

13  
14 Mr. Orlin,  
15 At the levels the committee are recommending in terms of the threshold for justifying a  
16 payment, It had Einstein as failing at the elementary level, not at the high school level.  
17 So what it means is that if there is any elementary school capacity being added at any  
18 of the schools or at multiple schools in the cluster whether it was a new school  
19 reopening or a new school being built or an addition, that would work to solve the issue  
20 the inadequacy that's been showing.

21  
22 Councilmember Ervin,  
23 Okay well how does that affect the metro station policy in Wheaton where there are  
24 several developments being proposed right now?

25  
26 Mr. Orlin,  
27 Can I double-check? Bruce, is -- why don't you come over to the table with the school  
28 stuff. Is the -- which cluster covers Wheaton CBD; is it Einstein or Kennedy?

29  
30 Mr. Crispell,  
31 It's Kennedy?

32  
33 Councilmember Ervin,  
34 Okay, well, Kennedy is on here too; so how does that work?

35  
36 Mr. Orlin,  
37 What it would mean is that if -- .

38  
39 President Praisner,  
40 Bruce, make sure your mike's on.

41  
42 Mr. Orlin,  
43 If there's capacity added in the Kennedy cluster then it wouldn't be a problem. If there  
44 isn't capacity added in the Kennedy cluster then development can still go forward as



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1 long as they -- according to the committee's recommendation made a school facility's  
2 payment.

3  
4 Councilmember Ervin,  
5 That still doesn't make a lot of sense. I'm not getting that. Can you speak to that, Bruce?

6  
7 Mr. Crispell,  
8 Well if you look at Circle 1 and 1 you see the results of the test. And it is true that  
9 Kennedy and Einstein end up being in an inadequate level almost all the way through all  
10 different options. But for the same reason you're going to see something new CIP -- the  
11 superintendent's recommendation next week that addresses those. So these things are  
12 on our radar screen obviously. And capital projects have been -- and feasibility studies  
13 for instance in the Einstein cluster, the McKinney Hills reopening has been through  
14 feasibility study, and that may be what takes care of the Einstein cluster issue reopening  
15 that. In Kennedy we have a couple of options there, but there will be a recommendation  
16 that addresses that. So the idea here is that the worst-case scenarios here are probably  
17 the ones that are most likely to be addressed in the CIP, just because they're the ones  
18 that we've been targeting.

19  
20 Councilmember Ervin,  
21 What happens if they're not -- we're not so lucky to have them sort of like in line?

22  
23 Mr. Crispell,  
24 Then the development -- if it fails they pay the school facility payment or if it's over the  
25 threshold for moratorium then there would be a year delay before we would look at it  
26 again.

27  
28 President Praisner,  
29 Valerie, most of the inline -- my recollection is relates to the modernization, not to new  
30 capacity necessarily.

31  
32 Councilmember Ervin,  
33 And but sometime -- a lot of times modernization does address -- .

34  
35 President Praisner,  
36 We'll have a new capacity added to it. But there have been some modernizations where  
37 the capacity -- but the queue is related more to the modernization.

38  
39 Councilmember Ervin,  
40 And the modernization is usually -- for new modernization that's increasing capacity. In  
41 the two years I was on the board that's what I saw.

42  
43 Mr. Crispell,





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1 It often is. But if we have a situation where capacity is needed in the modernization is  
2 too far out to wait for, we've added small additions in a number of cases. They were  
3 called the little darlings at one time. To get the school within capacity and then design  
4 the modernization around that new edition; that's happened in several cases.

5  
6 President Praisner,  
7 That was a long time ago with Rock Creek Forest, as I recall.

8  
9 Mr. Crispell,  
10 It's been used a number of times.

11  
12 President Praisner,  
13 Many years ago.

14  
15 Mr. Orlin,  
16 Mike reminded me actually in the current law and I didn't remember that the school  
17 facility payment is exempt in enterprise zones, Wheaton CBD is an enterprise zone. So  
18 in fact there wouldn't be any -- not only no impact tax, but no school facility payment in  
19 an enterprise zone. It still would be subject so the test, but if the test fails and would  
20 require a school facility payment, the law says no school facility payment in an  
21 enterprise zone.

22  
23 Mr. Hanson,  
24 Unless you amend it.

25  
26 Mr. Orlin,  
27 Unless you amend the law.

28  
29 Mr. Hanson,  
30 And if you've reached the threshold and nothing has been added into the CIP, you can't  
31 develop, you can't proceed.

32  
33 Mr. Orlin,  
34 But if you have to meet the moratorium level then that's right. But the threshold for  
35 school facility payment in the case of Wheaton CBD frankly is [inaudible].

36  
37 Mr. Crispell  
38 So they could proceed, Glenn?

39  
40 President Praisner,  
41 Thank you. Councilmember Leventhal?

42  
43 Councilmember Leventhal,



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1 I understand that we've got the growth policy recommendations, the tests and the  
2 facility's payments coming out of the PHED Committee. We separately have the impact  
3 tax coming out of the MFP Committee. Before I get my mind around the school's test  
4 and the facility's payment for schools, I would like to have a chart that also enables me  
5 to look at the impact tax recommended by MFP. So can someone just help me this.  
6 Let's hypothesize now. You have a unit. And it is proposed to be constructive. And  
7 you're in this window, which I am trying to get my mind around, where you are in --  
8 you're in excess of first the threshold but you're below the second threshold. So you've  
9 got to pay the facilities payment but you're not in moratorium, and you're in a cluster  
10 where the high school is over capacity, so you got to make a facility's payment of  
11 \$47,501 for the high school. Now if -- no?

12  
13 Mr. Orlin,  
14 That's cost per seat.

15  
16 Mr. Faden,  
17 That's per seat.

18  
19 Mr. Orlin,  
20 So for example, an elementary school -- a single family detached house generates one-  
21 third of a kid. So you would pay one-third of that cost per seat for a single family house.

22  
23 Councilmember Leventhal,  
24 All right. This is what I'm trying to understand. What is the impact on one house  
25 combined if you're in this window, you're over -- let's just take -- show Ms. Praisner's  
26 numbers -- this is the first one and it's easiest to pick. So you're over 105 so you owe  
27 the school facility's payment but you're under 120 so you can go ahead, you can build  
28 one house. What is the combined total impact on one house in that window under the  
29 Council President's recommendation, how much money?

30  
31 Mr. Faden,  
32 It would be about \$36,000.

33  
34 Councilmember Leventhal,  
35 Including impact tax?

36  
37 Mr. Faden,  
38 Yes. School impact tax not transportation. That's different.

39  
40 Councilmember Leventhal,  
41 Okay, but let's go ahead -- map that out for me. How much the impact tax -- the school's  
42 impact tax?

43  
44 Mr. Faden,



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1 The school impact tax under the committee recommendation for the single family tax is  
2 \$20,456.

3  
4 Councilmember Leventhal,  
5 \$20,456 for school impact tax.

6  
7 Mr. Faden,  
8 Right.

9  
10 Councilmember Leventhal,  
11 Then on top of that there's some mathematical formula where you have -- .

12  
13 Mr. Orlin,  
14 That's for a house that's less than 3500 square feet.

15  
16 Councilmember Leventhal,  
17 Some portion of an elementary school student, some portion of a middle school student,  
18 and some portion of a high school student.

19  
20 Mr. Faden,  
21 So depending on where that cluster falls short, let's say in your example it falls short at  
22 the elementary level, it's roughly a third of -- I'm sorry high school level -- roughly a third  
23 of 47,000, let's call it 15 or 16,000. Sorry I can't do the math that fast. So you're about  
24 \$36,000.

25  
26 Councilmember Leventhal,  
27 Okay, so the facility's payment kicks in based upon the capacity of the cluster in which  
28 you're located. So if it is high school that is over capacity, you've got to pay the high  
29 school rate; middle school, elementary school, et cetera.

30  
31 Mr. Faden,  
32 Correct.

33  
34 Councilmember Leventhal,  
35 It's -- there are some where all three are over capacity and then it would be higher.

36  
37 Mr. Faden,  
38 That's right.

39  
40 Mr. Orlin,  
41 Pay all three; that's right.

42  
43 Councilmember Leventhal,



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1 And the formula is determined based on an averaging of how many children reside in an  
2 average new house.

3  
4 Mr. Faden,  
5 Right.

6  
7 Councilmember Leventhal,  
8 So you're saying it's about 36,000 for one house that's in that window, a combined  
9 \$20,456 for the school impact tax plus the averaging or blending or whatever you want  
10 to call for the school capacity; and how much is the transportation impact tax?

11  
12 Mr. Faden,  
13 That would be in the county -- page seven -- this page seven of the tax packet. Single  
14 family detached house in the countywide district, not in the metro area, would be  
15 \$10,649.

16  
17 Councilmember Leventhal,  
18 So that takes us up to \$46,000?

19  
20 Mr. Faden,  
21 Around 47.

22  
23 Councilmember Leventhal,  
24 \$47,000 per house in this window.

25  
26 Mr. Faden,  
27 Right.

28  
29 President Praisner,  
30 Versus what it is now. I mean there are fees right now that I think it's the difference not  
31 the -- .

32  
33 Councilmember Leventhal,  
34 And what are the fees right now?

35  
36 President Praisner,  
37 Not denying, but the point is you're paying \$12,500 at each level in now high school  
38 right now.

39  
40 Mr. Orlin,  
41 It's about \$15,000 now.

42  
43 Councilmember Leventhal,  
44 Now, with the facility as well as the impact tax.



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1  
2 Mr. Orlin,  
3 For the two taxes together, it's \$15,000. We haven't had a school facilities payment  
4 made yet.

5  
6 Mr. Faden,  
7 The base rate is 12.5, and it would be about \$4,000. So you're close to 20 now.

8  
9 Councilmember Leventhal,  
10 Okay, could we just get for our next work session that chart that combines all the dollars  
11 we're talking about.

12  
13 Mr. Orlin,  
14 The problem is it's different for every type of -- every size, type. If you give us two or  
15 three different types of use -- .

16  
17 Mr. Faden,  
18 We can do it for scenarios.

19  
20 Councilmember Leventhal,  
21 What do you mean types of use? Do you mean whether the school is -- .

22  
23 Mr. Orlin,  
24 Is it an attached house, is it multifamily, is it high rise, where is it?

25  
26 Councilmember Leventhal,  
27 Can you give us typical examples? I'm trying to understand what are we adding into the  
28 cost of the house.

29  
30 Mr. Faden,  
31 We can do that.

32  
33 Councilmember Leventhal,  
34 Now next question.

35  
36 Councilmember Floreen,  
37 Excuse me, George, if I could just interject. If we're going to do that -- .

38  
39 President Praisner,  
40 Nancy.

41  
42 Councilmember Floreen,  
43 Well there's another element to that which is the mitigation elements of traffic.



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1 President Praisner,  
2 I understand what he wants. We can go through this by the end of the day.

3  
4 Councilmember Leventhal,  
5 I'm trying to understand how many dollars are being imposed for each unit.

6  
7 President Praisner,  
8 Because he's asking for it for next -- before next week, so we'll work through this. But I  
9 think we get the general understanding.

10  
11 Councilmember Leventhal,  
12 Could I get -- I'm actually asking my colleagues, fellow Councilmembers, but if the  
13 Planning Board wants to comment after my colleagues have commented, I appreciate it.  
14 On page 6, I'm reading from staff's memo -- middle of page 6. If the school impact tax  
15 rates are set as recommended by the Planning Board so that new development pays  
16 100% of the marginal infrastructure cost it incurs, what is the justification of in effect  
17 double charging? We're asking each unit to recoup its marginal effect on the  
18 infrastructure under the impact taxes, but in addition we have a facilities charge. How do  
19 we -- where does that come from? How do we impose 200% of the marginal impact; or  
20 180 percent of the marginal impact? Do my colleagues have any thoughts in response  
21 to this question? I'm not taking a position on the question, I just think it deserves some  
22 discussion.

23  
24 President Praisner,  
25 That question was raised by staff. If anyone on the Planning staff wants to comment,  
26 and then Councilmembers. Or planning board.

27  
28 Mr. Hanson,  
29 Just the general response to that is that the tax is a system tax, and may be used  
30 anywhere in the system. The payment or the fee -- .

31  
32 Councilmember Leventhal,  
33 The impact tax.

34  
35 Mr. Hanson,  
36 The impact tax is a system-wide tax essentially.

37  
38 Councilmember Leventhal,  
39 Bruce, I'm sorry. I'm really to understand this. We got two different taxes we're talking  
40 about now. We're talking about a house in this window where you're liable for the  
41 facilities charge, but you're under the moratorium, that one. That one is double hit.

42  
43 Mr. Hanson,  
44 That's not a tax.



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1  
2 Councilmember Leventhal,  
3 It's a charge.

4  
5 Mr. Hanson,  
6 It's a charge.

7  
8 Councilmember Leventhal,  
9 And the justification for it?

10  
11 Mr. Hanson,  
12 And the justification for it is that you are essentially moving out of turn. You are moving  
13 your project, if you're a developer, ahead of the provision of the facilities. You can wait  
14 and pay nothing. You can wait for the CIP to come along to provide the facility. The  
15 facilities are then adequate, there is no charge. That's your call if you're the developer.

16  
17 Councilmember Leventhal,  
18 So it isn't really based on the infrastructure impact of the additional unit, it's just -- .

19  
20 Mr. Hanson,  
21 It's based on the cost of providing a seat or the portion of a seat for the students that  
22 you generate.

23  
24 Councilmember Leventhal,  
25 Is it not the case though that the impact fee is based on the cost of providing a seat for  
26 the students that you generate?

27  
28 Mr. Hanson,  
29 The impact tax is based on the marginal cost of all of the school needs to serve all of  
30 the growth that is projected for that time period. And it is allocated then on the cost per  
31 student for different types of dwelling units.

32  
33 Councilmember Leventhal,  
34 Are you sure you're not saying the same thing twice?

35  
36 Mr. Hanson,  
37 Not quite. There's a distinction.

38  
39 Councilmember Leventhal,  
40 You want to go over it with me one more time? The distinction is what? You allocate all  
41 of the costs attributable to one additional student to the students that an average house  
42 it expected to provide, and you charge that amount on the impact tax.

43  
44 Mr. Hanson,



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1 However, if, as you say, a developer wants to go ahead and not wait for capacity to  
2 meet where it ought to be for that unit to be built without incurring the facilities charge,  
3 that developer pays a facilities charge which basically is the amount of cost attributable  
4 to that student. So you're double charging for that student, are you not?

5  
6 Mr. Moritz,

7 The main difference between the impact tax and the school facilities payment is that the  
8 school facilities payment is just charged at the level where there's an inadequacy. But in  
9 fact the Planning Board's discussion about whether or not it was double charging is  
10 really related to these two points that the Chairman mentioned, which is their view that  
11 the impact tax is what all development should pay as their contribution to the larger  
12 system of school facilities. Whereas if they are in an area that is currently inadequate  
13 and want to move ahead soon -- .

14  
15 Councilmember Leventhal,  
16 They pay twice.

17  
18 Mr. Moritz,  
19 They have to pay twice.

20  
21 Councilmember Leventhal,  
22 Same thing twice, calculated roughly the same way.

23  
24 Mr. Moritz,  
25 It's a similar base.

26  
27 Mr. Hanson,  
28 It's a similar base; that's correct.

29  
30 Mr. Moritz,  
31 Correct.

32  
33 Councilmember Leventhal,  
34 Well, that's what I asked in the first place. Okay, now, getting to Councilmember Ervin's  
35 point. So there's a queue; the school is not going to be built any faster just because we  
36 have this double payment on this unit that's in this window. So we cannot represent to  
37 the public that by charging these dollars, we're actually providing capacity because as  
38 you say, Mr. Chairman, it's a systems charge. There's more money in the system, but if  
39 something is built in the Blake cluster, it's not going to speed up construction at the  
40 school that's affected, it's just there's money in the system and eventually we will get  
41 around to modernizing that school in the Blake cluster.

42  
43 President Praisner,  
44 It's not modernization. It's addition [inaudible].





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1  
2 Councilmember Leventhal,  
3 Increasing capacity, whatever. But we'll get around to it when we get around to it. We  
4 won't in fact get around to it any sooner.

5  
6 Mr. Crispell,  
7 Well I want to make it clear that we don't have a queue for capacity. We do have a  
8 queue for school modernizations. But where capacity is needed we add it sort of on a  
9 worst-case first gets the capacity. So even if a school is not on the modernization queue  
10 or it's way out in the future, we will ahead capacity to that school. Don't get mixed up  
11 with the modernization queue also driving any other type of project in the CIP. We look  
12 at each year at the projected enrollment and move projects according to the amount of  
13 deficit that we see at schools to the extent that we can move things forward we do.

14  
15 Councilmember Leventhal,  
16 And also the amount of money in the CIP. The CIP moves faster if there's more money  
17 in it; I mean the queue moves -- things move up in the queue faster if there's more  
18 money.

19  
20 Mr. Crispell,  
21 I wouldn't use the word queue so much.

22  
23 President Praisner,  
24 No it's not a queue for capacity.

25  
26 Mr. Crispell,  
27 I think you need to separate those.

28  
29 Councilmember Leventhal,  
30 Is there any link between the dollars that will be paid for those units that may be  
31 approved -- homes that may be approved in an area that is over the capacity threshold  
32 but under the moratorium threshold? Is there any real link between dollars paid for  
33 those homes and the likelihood that capacity will indeed be added? Is there any  
34 connection between those two things?

35  
36 Mr. Moritz,  
37 Well there's two ways to connect it. One of them is geographic where you hang on to  
38 the money and you pledge only to spend that money to fix the problem that's being  
39 generated.

40  
41 Councilmember Leventhal,  
42 And the Planning Board is not proposing that. Nor is the PHED Committee proposing  
43 that.



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1 Mr. Moritz,

2 No, that's in there that there's a geographic nexus between the school facilities'  
3 payment, where it comes from and where it gets spend. That's very close because -- .

4  
5 Mr. Orlin,

6 It's a little different, Mr. Leventhal. The Planning Board's recommendation is actually the  
7 same as the current law, which says that the money that's collected in a cluster  
8 because of whatever level the problem is has to be spent in the cluster, but it doesn't  
9 direct that it be spent at that level. What the PHED Committee's recommendation -- the  
10 majority of the recommendation is that it has to be spent for the cluster and at that level.  
11 So if it's an elementary school problem which causes you to have to pay a school facility  
12 payment in the Blake cluster, then the money would got into a pot for elementary school  
13 capacity being added for the Blake cluster. Current law would say it's for capacity in the  
14 Blake cluster. It could be used for a middle school or a high school. The Planning  
15 Board's recommendation was the latter. It was the money could -- which is the current  
16 law, which is the money that's collected would be for any capacity added in the cluster;  
17 the PHED Committee majority recommendation is for cluster and level.

18  
19 President Praisner,

20 I think it's important as we go through this to be clear where -- and that's why I tried to  
21 use the chart on page 3 -- where existing law is -- where the rules exist now versus  
22 what the modifications are to those rules. There may not have been a payment yet, but  
23 there has been a payment requirement in addition to impact taxes already. The County  
24 has had both impact taxes and school facility payment in place right now, today. So the  
25 amounts and its applicability and the threshold levels when it goes into play are where  
26 the changes are. When you pay it, how it's used, and how much you pay are where the  
27 changes are, not the concept, but those changes.

28  
29 Mr. Orlin,

30 The second part of your question that I think Karl is going to get to was that there's a  
31 connection in terms of -- is there a connection in terms of is the money going to be  
32 spent in the cluster at the level in time for the development?

33  
34 Councilmember Leventhal,

35 The first question is will it be spent at all? Will it increase capacity at all? In fact --  
36 because I'm sorry, I'm trying to grasp this. I don't understand every nuance of how the  
37 policy is applied. And when I heard the Chairman say it was a system's charge, I did  
38 not, which I now do, understand it is in fact allocated to that pot.

39  
40 President Praisner,

41 The impact tax -- they're two different things.

42  
43 Mr. Orlin,

44 The school facilities payment is tied to -- .



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1  
2 Unidentified,  
3 The facility's payment is tied to the cluster. And the committee has recommended -- and  
4 I don't think we had any objection to it, is applying it to the level.

5  
6 Councilmember Leventhal,  
7 Okay. And so now the connection between the money that goes -- that is allocated in  
8 that way and the likelihood that that money actually will be spent and result in actual  
9 increased capacity; what is the likelihood of that?

10  
11 Mr. Crispell,  
12 Well it will contribute to it, I would say. It won't be sufficient probably for the magnitude  
13 of capital projects that need to be made. But it certainly would contribute to it.

14  
15 Councilmember Leventhal,  
16 And having money speeds up projects.

17  
18 Mr. Hanson,  
19 Right. It both speeds it up, and it signals that there's a problem here that needs to be  
20 addressed.

21  
22 Councilmember Leventhal,  
23 Does the Planning Board believe, because here we get into one of the fundamental  
24 conundrums of this whole thing. The effect of -- I'm just going to go ahead and say  
25 double taxing each student could well be a disincentive to do what the Chairman  
26 referred to earlier, that is a builder could wait until the CIP is in such a place that you're  
27 below the first test, below the threshold where the facilities payment would be triggered.  
28 A developer could wait. So if the developer is in a hurry and wants to do it now, the  
29 developer would have to pay the facilities payment. I got that. The facilities payment  
30 does serve as a disincentive to do that. And so now and again throughout this  
31 discussion we're going to face the fundamental conundrum that is are we providing a  
32 disincentive to collecting the very revenue that we seek to increase the capacity that we  
33 want to increase. What's the net here? Are we raising money to build capacity or are we  
34 preventing the construction of houses on which we will raise revenue?

35  
36 Mr. Hanson,  
37 You're trying to raise money to keep capacity concurrent with the development. If the  
38 development doesn't occur, you don't need the capacity. If the development does occur,  
39 you do need the capacity. From the beginning, the adequate public facilities concept as  
40 it has been used here and throughout the country has always permitted a development  
41 to proceed if it provides the infrastructure that's necessary. So that has always been the  
42 escape clause, and the provision that makes it possible, in effect, to have an adequate  
43 public facilities ordinance.



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1 Councilmember Leventhal,

2 So you would not say that the purpose of the facilities charge is to be a disincentive to  
3 construct that housing? That's not its goal.

4  
5 Mr. Hanson,

6 Well that's not its goal. That entirely depends on the developer and the way in which he  
7 sees his pro forma's working.

8  
9 Councilmember Leventhal,

10 It would depend on the economics of the project and the state of the market and the  
11 likely profit to be derived.

12  
13 Mr. Hanson,

14 Right.

15  
16 President Praisner,

17 One could say absent the school facilities payment, the project couldn't go forward  
18 anyway. Because the conditions at that location are such that there isn't any  
19 infrastructure for that -- there isn't any capacity for that development. So this is an  
20 escape clause with a price tag.

21  
22 Mr. Hanson,

23 That's right. And I think that's also why we, the School Board, and the committee, have  
24 all recommended some signaling which if you're so far over capacity that, you know,  
25 you just can't -- you can't even go forward with a payment; you got to wait until  
26 something can be done.

27  
28 President Praisner,

29 Further questions, George? No. Okay. Valerie?

30  
31 Councilmember Ervin,

32 I just want to get some information from Mr. Crispell on this issue of the CIP. I just think  
33 we're splitting a few hairs here about capacity when you're -- when we do -- when we  
34 have had a school who finally gets up this queue, that's a complete teardown and a  
35 rebuild. That's what happens. You don't go in and remodel classrooms. You tear the  
36 school down and rebuild it essentially. And you're adding capacity when you do that. So  
37 I want from you a list of schools that you've added capacity to recently, say in the last  
38 couple of years, and this CIP that you guys are going to propose, I guess it's not out yet,  
39 but I really want to draw some attention to what it is that we really do here in our  
40 County. We don't just go remodel schools. We tear them down and we rebuild them  
41 based on the kind of capacity that we need to see in that school building. So, you know,  
42 I don't want to keep belaboring this point, but I think it's an important point and how we  
43 sort of merge these two public policy goals together matters to me. So I'd like to see  
44 how you -- you just indicated that in areas where schools are over capacity that the



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1 school system is in fact going in and adding capacity. I want to see a list of those  
2 schools. Thank you.

3  
4 Unidentified,  
5 Sure.

6  
7 President Praisner,  
8 Councilmember Elrich.

9  
10 Councilmember Elrich,  
11 Just a quick comment on where you have me in positions on the paper. I think after  
12 yesterday's conversation on the discussion with the school system about the flexibility  
13 and being able to move things and address things, my only difference between your  
14 position and my position position was 115 rather than 120.

15  
16 President Praisner,  
17 All right, okay. Thank you. Council Vice President Knapp.

18  
19 Vice President Knapp,  
20 Thank you, Madam President. There are questions for clarification at this point, I think.  
21 In the first element, the measure of adequacy -- and this gets back to kind of my  
22 opening questions. So the issue we have here is actually we're making a policy change  
23 that I think everybody or all the organizations agree addresses a more accurate  
24 reflection of a designation of capacity. Board of Ed, Park and Planning, us. So  
25 effectively then you get this ripple through effect by changing that. You then get to  
26 different tests, different requirements within those various clusters, so it changes the  
27 dynamic to some extent. So now we have got to go back through and figure out what  
28 the ripple effect of that dynamic is. Is that fair?

29  
30 President Praisner,  
31 The one thing that I think I asked the board to do and they agreed is have some kind of  
32 freeze to this program capacity, because you could have a situation where this is  
33 occurring every year, the capacity is being changed. And they made a commitment to a  
34 two-year, as I recall.

35  
36 Mr. Orlin,  
37 I apologize for that. That should have been in the recommendations. The School Board  
38 recommended that and you [inaudible] Mrs. Praisner, that if there -- if a program is  
39 going to change between the two-year cycle and growth policy that they will do it, but in  
40 terms of the capacity -- program capacity that's accounted for the growth policy, that  
41 would not be reflected.

42  
43 President Praisner,  
44 It's good for two years.



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1  
2 Mr. Orlin,

3 It would be frozen for two years. If within the two-year period a new school opens, well  
4 yes, then program capacity both real and in the growth policy would change. But  
5 changing an ESAU class from one cluster to another or something like that would not be  
6 changed. The gist of the problem in the first place as to why the Council had the growth  
7 capacity policy for all these years.

8  
9 President Praisner,

10 That was one of the concerns that I think is resolved to some extent. The two years may  
11 not be the best number, but at least it is a two-year CIP in our view. And it has some  
12 consistency.

13  
14 Vice President Knapp,

15 I think it was one of those things -- that was difficult to explain to people anyway, and I  
16 never understood how we ultimately got there. So I think I have a number that everyone  
17 agrees is the number is a good thing to do. Walking through the pieces. So staging  
18 ceilings; somebody tell me what that really -- how that works and what that means.

19  
20 Mr. Orlin,

21 I guess I better do that. When we had policy review for the transportation test, what we  
22 looked at was what was the -- how much development could be allowed in there -- how  
23 much traffic could be allowed in an area compared to how much capacity was there  
24 transportation. If there was more traffic in four or five years than there was capacity,  
25 then the area wanted to import moratorium. However, even if there was less traffic than  
26 what the standard would call for with the build-out of the pipeline, we still capped the  
27 amount of development that could be approved so that it wouldn't exceed the threshold  
28 of inadequacy. Does that make sense? And that bottom line is it was one thing to say,  
29 yes, you could go forward with development, but to a limit; a limit that wouldn't bring you  
30 to the point where you would exceed the threshold of adequacy. And so this is a  
31 proposal to do the same thing in the school test. The best way I can do it is through an  
32 example. And if you look on -- the discussion of this is on the bottom of page 5, page 6  
33 of the packet, it's 4 and 6 updated. And you see at the top of page 6, how would it work?  
34 If you look to circle 10 -- and I'll talk you through this. Circle 10 is one of the many  
35 scenarios that Bruce Crispell ran for us as to what a test might be. This happens to be  
36 one that actually I think is not necessarily recommended by anybody right now from the  
37 PHED Committee, but it's there. It's 110 percent program capacity looking out five years  
38 from right now. And the way that these charts all work just for your information, the top  
39 part of the chart is elementary school enrollment capacity, the middle part is middle  
40 school, and the bottom part is high school. If you look down the cluster areas in the top  
41 part of the chart, which is elementary school enrollment, look down where it says  
42 Quince Orchard -- do you see Quince Orchard High School, on circle 10 at the top. It's  
43 just above -- you see Rockfield is in bold and Quince Orchard is just above it. If you  
44 follow your finger across to the fourth column of data, number 36, and what that is, is



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1 that's how many students or seats there is in terms of available capacity at the  
2 elementary school level in aggregate in the Quince Orchard cluster. So it's not  
3 inadequate. You can see the next column over it's adequate because it's a positive  
4 number, but it's a small number. And the question is do you allow -- because it's  
5 adequate, do you allow any residential development in the Quince Orchard cluster to be  
6 approved, or do you limit whatever residential development could be approved so that it  
7 doesn't add more than 36 seats? And the math on page 6, if we can get back to that,  
8 you'll see that -- and these are right out of MCPS's student generation rates. On  
9 average a single family detached house generates 0.32 kids -- about a third of a kid.  
10 And so 36 seats would be generated by 113 single family detached houses. Do you see  
11 that? And then if you look at a townhouse development, well townhouses don't generate  
12 quite as many students per dwelling unit as a single family detached, so you could  
13 actually have up to 171 townhouses in Quince Orchard being added before you get to  
14 36 seats; 235 garden apartments; 857 high rise. What the committee's recommendation  
15 would be is that if 3B were the test, which actually isn't the recommendation, if that were  
16 the one, then it would allow residential development to happen here but only to these  
17 limits. So you don't go into the inadequate range. Okay. Or if it's allowed, if the 110  
18 percent meant the threshold for the school facility's payment, that's how many units you  
19 could get before you have to start making a school facilities payment.

20  
21 Vice President Knapp,  
22 Okay, all right. Well I was going to -- .

23  
24 President Praisner,  
25 There Isn't a staging proposal in front of you; what there is, is a request to look at the  
26 issue of developing a staging?

27  
28 Vice President Knapp,  
29 So as a part of this growth policy, we don't have it, we just have a recommendation from  
30 two of the members on the committee that that's a good idea to explore further.

31  
32 President Praisner,  
33 Recommend that we establish them.

34  
35 Mr. Orlin,  
36 That it be established and that it be implemented so that -- .

37  
38 Vice President Knapp,  
39 Would that be established in the next two weeks or would that be established some time  
40 in the future?

41  
42 Mr. Orlin,



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1 No, right away. The recommendation is that the growth policy changes -- the majority of  
2 the PHED Committee -- goes into effect with the approval of the growth policy. And so  
3 that would -- .

4  
5 President Praisner,  
6 That would be the staging.

7  
8 Vice President Knapp,  
9 So all right. You said 3B is not the test. Is there a chart in here someplace that would  
10 actually reflect?

11  
12 Mr. Orlin,  
13 Well the committee's -- Mrs. Praisner and Mr. Elrich's recommendations for 105 percent  
14 at -- .

15  
16 President Praisner,  
17 In 2011.

18  
19 Mr. Orlin,  
20 So it's table 2.

21  
22 President Praisner,  
23 Circle 6.

24  
25 Mr. Orlin,  
26 Circle 6, that's right.

27  
28 Vice President Knapp,  
29 So if we want to see what this impact is going to be, we need to go back and look at  
30 circle 6.

31  
32 Mr. Orlin,  
33 If you look at circle 6, you can see there are several clusters at the elementary level  
34 which would be inadequate. But all of these, I believe, are inadequate at the 105  
35 percent level. In other words, they would trigger a school facility's payment. But the  
36 ceiling idea would go into effect, for example, at Northwood High School at the  
37 elementary level. You see there's only 31 -- it's positive, but only by 31. So you do the  
38 same kind of math, and as in the Northwood cluster, you could have a certain number of  
39 units be approved, but at some point you might have to then make a school facility  
40 payment if you exceed 31. And that's the idea of [inaudible].

41  
42 Vice President Knapp,  
43 That's a good explanation. I appreciate that. So circle 6 is the one to follow up on. If --  
44 so given interpretation, if what you just described -- so say Quince Orchard cluster,





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1 which here actually now goes to inadequate. If whatever test we're talking about, does  
2 that mean in if the high school is inadequate, that the entire cluster is inadequate so it  
3 doesn't make a difference which high school, middle or elementary, if there are schools  
4 in that cluster that are inadequate, then a school facilities payment would be required?

5  
6 Mr. Orlin,  
7 At that level. At that level. Remember, there are three different school facility payments.  
8 One which is -- .

9  
10 Vice President Knapp,  
11 I haven't got that question yet.

12  
13 President Praisner,  
14 The payment that exists now is the same amount for every level. The payment that  
15 exists by the Planning Board's recommendation is going to vary because the cost of that  
16 seat per child varies at the high school, elementary, and middle school levels. So that's  
17 the Planning Board's recommendation is to change the school facility payment to not be  
18 a flat rate, but to tie it more directly to their calculation of a cost for a seat at that specific  
19 level.

20  
21 Mr. Orlin,  
22 Right.

23  
24 Vice President Knapp,  
25 Okay.

26  
27 Mr. Orlin,  
28 So it's at the top of page 7 in the same packet.

29  
30 President Praisner,  
31 The committee is not recommending any.

32  
33 Vice President Knapp,  
34 Okay, so in Clarksburg, for example, so you would end up in order -- you'd end up  
35 having to make a payment for an elementary school, middle school, and high school  
36 payment in addition to the other fees that have been described.

37  
38 Mr. Orlin,  
39 Impact taxes, yes. And there's no credit between school facility payment and the impact  
40 tax.

41  
42 President Praisner,  
43 And again, the only difference there would be the change in rate on impact taxes, which  
44 is -- we'll discuss, and the change in rate on school facility. It isn't a new concept. It's



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1 just a different rate. And it's going to be geared towards the yield from that household --  
2 the projected yield at each level.

3  
4 Mr. Orlin,  
5 And the recordation tax.

6  
7  
8 Vice President Knapp,  
9 As you look at scenarios since this is actually a practical scenario, since we know that a  
10 community like Clarksburg is anticipated to continue to develop in some capacity -- at  
11 least that's the master plan that -- that might be one of the good scenarios to look at to  
12 see what the various impacts could be. Especially since they're different -- I think, if I  
13 looked at everything right there are different impact tax rates for Clarksburg.

14  
15 Glenn Orlin,  
16 Right. Okay.

17  
18 Vice President Knapp,  
19 So it might be a chance just to see what that does. Okay. The school facilities payment  
20 and how that gets used, I just wanted to -- I wanted to clarify that a little further, because  
21 four years ago we had this great idea, which I thought was interesting that we would  
22 actually keep the impact taxes that were generated in Clarksburg in Clarksburg with the  
23 presumption that it would actually allow us to accelerate programming and activities.  
24 The reality of what then occurred was all it really did was increase the capacity of the  
25 CIP, so we took the additional resources and -- resources we probably had in the CIP  
26 for Clarksburg, used the impact tax dollars, put them there and we just freed up capacity  
27 other places in the CIP, which the more I learned I can understand how we got there; I  
28 didn't necessarily buy it, but I got -- I understood it.

29  
30 President Praisner,  
31 But it ensured that it would be there. You can't automatically assume that those  
32 Clarksburg projects would have been in the CIP in the first place. They would have  
33 competed with everybody else.

34  
35 Vice President Knapp,  
36 Right it would have competed. So presumably, it kept them on track. But so if you have  
37 the school facilities payment, how does that -- I guess I just want to clarify this further.  
38 So, Bruce, you talked about the notion that if it was a capacity issue because our top  
39 two issues are health and safety and capacity, that if there was a need to address  
40 capacity, then you would do it. So if presumably -- I'm just trying to figure out the  
41 process. If you guys at the Planning Board have approved a development contingent --  
42 or said in order for this development to proceed, a school facility tax were required and  
43 they would -- the developer or builder would then go to DPS and say, okay, we're going  
44 to make our payment. And then they get to proceed and to whatever number that they



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1 have made the payment for. Then somehow that information would get from -- well, you  
2 would know because DPS would tell you that somebody made the payment?

3  
4 Mr. Moritz,

5 Well, we would, but I think if you're saying how does it get translated into the budget for  
6 capital purposes, Finance actually would be collecting -- .

7  
8 Vice President Knapp,

9 We're going to get there, too. I'm just trying to figure out the first step. So presumably  
10 that's when DPS would then say this development came in at this level, and so you  
11 guys would then know that this was going to proceed because they made the payment.

12  
13 Mr. Moritz,

14 You have go it sort of backwards because when they came in for a building permit, we  
15 would be advised that a building permit was asked for, and we would say by the way a  
16 requirement of approval was that a school facilities payment was required, so DPS  
17 would then know that they need to collect the school facilities payment. So that's how  
18 that would work.

19  
20 Vice President Knapp,

21 Okay. And -- okay. So then once DPS knew that was required, how would the school  
22 system know that that was something they would need to program?

23  
24 Mr. Moritz,

25 Well, there are a couple ways. The one is the reporting in the growth policy of the  
26 approvals that have occurred in every area, which is what would be required under any  
27 sort of school test where we're getting these kinds of approvals. The second certainly is  
28 that there would be pots of money collecting in various places that the Finance  
29 Department would report out -- yes, we have received X amount of money from  
30 development in this cluster.

31  
32 Vice President Knapp,

33 Okay. So DPS would collect it; it would be -- if we followed this through, because it  
34 would have to be coordinated with each cluster, then there would have to be some  
35 tracking mechanism on the part of Finance to say here's a pot of money that has been  
36 collected. That would then trigger a flag that somebody in finance would call MCPS that  
37 would then say we've got -- pick a number -- half a million dollars sitting in a pot for you  
38 guys to do something with; which would then get you guys to go and say what happens  
39 next?

40  
41 Mr. Crispell,

42 Right, but I think in actuality, we would already know that we needed to program  
43 something there. We wouldn't be unaware of it. It would just contribute to the funds we  
44 have available to bring that project into the Capital Budget. And I guess -- .



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1  
2 President Praisner,  
3 It would show up a line of the source of funding for the specific project.

4  
5 Mr. Crispell,  
6 In that cluster. But I wouldn't want people to think well here is the school facility being  
7 paid, and suddenly you're going to see a construction crew on the school the day after  
8 we collect that money. It's going to be part of a bigger pot that is going to have to be  
9 funded to build anything.

10  
11 Mr. Hanson,  
12 You have to keep in mind that the subdivision is approved, it will be a few months  
13 before they get the record plat. Then they are going to get to building permit. The  
14 money from the building permit stage becomes available well before any houses are  
15 occupied. So we're talking about a four- or five-year process.

16  
17 Vice President Knapp,  
18 I'm just trying to walk through how we would get there. And I'm not making any  
19 judgment one way or the other. I'm just trying to get a sense of how it could work. But  
20 especially if you had a -- sure.

21  
22 President Praisner,  
23 If I could say, Mike, the only difference from what exists right now is the need to keep  
24 track of it relative to the cluster. The facilities payment exists right now.

25  
26 Vice President Knapp,  
27 Right.

28  
29 President Praisner,  
30 So the only difference is a tracking and a recordkeeping piece. But presumably, if  
31 there's a school facilities payment right now, the school system has had some  
32 discussion of where that's going to be used or how.

33  
34 Mr. Orlin,  
35 Well it probably -- in fact, the way government tends to work is that since the growth  
36 policy is approved and it shows that there's nobody going to be paying the school facility  
37 payment, there's not going to be a system worked out for [inaudible].

38  
39 President Praisner,  
40 But the point is -- .

41  
42 Mr. Orlin,  
43 I mean they will do this.



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1 President Praisner,  
2 But the point is. I'm sorry, Glenn, you are correct that it hasn't been paid because there  
3 has been no situation to require it. But the question of how would it work if it were  
4 required is a question that probably should have been asked two years ago. More than  
5 two years ago.

6  
7 Mr. Orlin,  
8 I don't entirely disagree but -- .  
9

10 President Praisner,  
11 Because that was when -- I'm trying to make the point that the committee and the  
12 Planning Board are modifying some things that exist right now, and I think the questions  
13 are really good ones because they speak to implementation, which in my view has been  
14 the place where we haven't asked enough questions in the past. But it's not something  
15 new.

16  
17 Mr. Orlin,  
18 All I'm trying to say that's not -- you're correct, that's not new. All I'm saying is that  
19 because the last growth policy -- all growth policies up to now have said no area fails,  
20 school facility payment, I would bet -- tell me if I'm wrong, folks, that there have been no  
21 administrative procedures set up for tracking school facility payments because people  
22 are busy. They will do it once they know it's going to happen, but it probably has not  
23 been done. It will happen.

24  
25 President Praisner,  
26 I'm sorry, there are not good administrative and executive regulation procedures for a  
27 whole host of things over the last four or five years when a growth policy would have  
28 assumed we needed them.

29  
30 Mr. Faden,  
31 I think the answer is actually even simpler than that. In the school facilities payment,  
32 while it's not a tax under the law, is treated for administrative purposes like one, like the  
33 impact tax. And so there is a process laid out for collection, accounting, et cetera, of the  
34 school impact tax; and the facilities payment, when it's received, would just piggyback  
35 on that.

36  
37 Glenn Orlin,  
38 It's not hard but it just has to be done that's all. All right.  
39

40 Vice President Knapp,  
41 Well let me ask a quasi real-world example. So if everything works right, the Planning  
42 Board is going to get the Germantown master plans sometime in spring-ish. And in  
43 there presumably there will be some recommendations to rezone some parcels, do  
44 some different things in the Town Center area, which would likely be in the Seneca



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1 Valley cluster. If I look at the cluster at the Seneca Valley cluster at elementary, middle,  
2 or high school, there is capacity. But it's not out of the realm of possibility that something  
3 could be rezoned significantly enough to really increase density that would -- somebody  
4 could come in and really put -- have a proposal that would put them over capacity. So  
5 but they are not on the list to do anything right now. So I'm just trying to get a sense. It's  
6 not in the plan, it's not in the program, it's not out there to do anything with, and you  
7 wouldn't even think to be looking at it. So kind of to your point, from any place that's kind  
8 of on the margin, and you would probably already be looking at trying to create some  
9 capacity for. Here's one that's not on the margin, but is it -- practically is a community  
10 that it could increase density in a place that makes sense to do so, which could then put  
11 this out there. How would that then -- how would that work? How would you kind of  
12 trigger that and how would you get to the next step? Because it really would be coming  
13 in from left field.

14  
15 Mr. Crispell,

16 Well we do participate in the master plan process. But we don't factor in any new  
17 student generation until a subdivision has approval. And that's the whole point where  
18 the growth policy kicks in. So right now any development that's in that Seneca Valley  
19 cluster it's still coming up, which isn't much I don't believe -- is in that forecast that  
20 you're looking at. So right now, we're saying there's no restrictions at any level,  
21 elementary, middle, or high school to continuing subdivision approvals, and those  
22 subdivision approvals get factored into the next round of forecasting and so on. If at  
23 some point, the Germantown master plan gets approved and subdivisions start coming  
24 in, as they get approved each forecast cycle will add those in. And there may come a  
25 time when the forecast takes it right over the threshold for the growth policy test, then  
26 these payments would kick in and possibly moratorium if it's very much over capacity.  
27 So it's a -- It's sort of an annual updating of the enrollment forecast, factoring in  
28 subdivision approvals that have occurred. For the clusters that don't have a capacity  
29 deficit, there's no action that the Planning Board would proceed to approve.

30  
31 Vice President Knapp,

32 Okay, I'll explore that a little further, but we can come back to it. But thank you. I guess  
33 the last point we talked but I think we're going to get the dealt -- the difference between  
34 kind of existing and what the proposed could get us to. The other thing I want to say,  
35 and I don't know if we have this capability, is if we have a recommendation -- we have  
36 two members from the PHED Committee made a recommendation -- is it possible for us  
37 to graphically portray kind of what the impact would be? It's tough for, I mean, I like the  
38 charts and that's nice, but if we could show -- pick again two or three scenarios that  
39 show what the -- this is what the County now looks like; here are the places that would  
40 adequate, here are the places that are adequate so we can visualize what it is that  
41 we're dealing with.

42  
43 President Praisner,

44 I'm not sure -- the circle 1, circle 2 has some of that issue as it relates to schools.



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1  
2 Vice President Knapp,  
3 I mean just to have a picture. I know that my [inaudible] I found on his desk -- .

4  
5 President Praisner,  
6 [Inaudible] okay.

7  
8 Vice President Knapp,  
9 If we could do something like this.

10  
11 Mr. Moritz,  
12 We have actually done it previously for the Planning Board. So we could do these new  
13 scenarios.

14  
15 Vice President Knapp,  
16 That would be helpful for just to be able to see what we're talking about. Those are my  
17 questions.

18  
19 President Praisner,  
20 Anything else.

21  
22 Vice President Knapp,  
23 Thank you.

24  
25 President Praisner,  
26 Okay, Councilmember Elrich.

27  
28 Councilmember Elrich,  
29 I put my light on a while ago. I just wanted to -- was response to something Mike said. In  
30 the initial discussion about the cluster with 36 students and having space for 36 people,  
31 I think it's one of the critical things about this is making decisions based on what we  
32 actually know is going to happen, because I can think of discussions in the community  
33 where the discussion is, is there room for this development at the school, and the  
34 answer is yes. And then another development comes along and the answer is yes,  
35 because it's all based on those 36 seats. But we all know that the cumulative effect of  
36 several of these things is more than the 36. So the decision to do staging drives us in  
37 the direction of starting to make decisions based on what we really know and being  
38 fluid, not saying I only know what I know on November 15, 2007. I know what I know  
39 when things change on March 1st of 2008.

40  
41 Vice President Knapp,  
42 And I agree. But I guess the point I want to try to make sure that we do is whatever -- a  
43 lot of our job is managing expectations. If we put something out there that says this is  
44 now what's going to happen and we're going to have these trigger mechanisms to take



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1 effect, I represent at least three different communities over the course of the last five  
2 years that when a market goes in a good direction, things take off really fast. And so we  
3 could do an annual enrollment, we could do a semi-annual enrollment. I'm not sure we  
4 are necessarily going to keep up with some of the changes that could occur. And so I  
5 just want to make sure that we have the pieces in place that can capture it, because the  
6 expectation will be wait a minute, it's been approved; when is the construction going to  
7 take place at Seneca Valley to accommodate what's there? And you have a developer  
8 that theoretically has made the payment that said look -- .

9  
10 President Praisner,  
11 But he doesn't make a payment until he pulls the building permit. So he's closer to  
12 construction than the approval would be.

13  
14 Vice President Knapp,  
15 Right. But you still have that -- the element of consistency that says okay they are ready  
16 to go. And I just -- to make sure that you have these pieces linked in a way that  
17 practically happens, because there are a lot of parts of the County where it's going to be  
18 a longer process, but you got places that are ready to go like a Clarksburg, like some  
19 portions of Germantown that will -- when a mark comes back up, will go more quickly,  
20 and to make sure that the triggering mechanisms are in place that it works as opposed  
21 to having people even more frustrated than they are today.

22  
23 Councilmember Elrich,  
24 I fully agree with that. My fee -- the other expectation I want to manage is the  
25 expectation when we tell the community that we have factored in things and your school  
26 is going to be fine and then they come back and they say you told us the school is fine,  
27 why does it portables on it when it opens? So I think we need to manage a whole set of  
28 expectations.

29  
30 President Praisner,  
31 Councilmember Floreen.

32  
33 Councilmember Floreen,  
34 Thank you. I just -- this is just going to the information gathering element of this and sort  
35 of building on what George and Mike have asked for. We do have -- this is very difficult  
36 to follow because there are so many moving parts. Different committee members have  
37 different recommendations for what's adequate, what's a moratorium level, and then the  
38 timeframe associated with it depending upon when you start counting, four years or five  
39 years of the CIP. It would be help -- I would like to know, and I think George was -- it's  
40 an element to George's question, I think. I would like to understand the implications for  
41 geographical areas of the County. You have it by school district. I'm particularly  
42 interested in the transit station locations and Clarksburg as to what the real implications  
43 of the different recommendations would be. Basically, we have three completely  
44 separately recommendations. And I would like to understand the geographic





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1 implications as well as the impact tax implications. I know, and it was helpful, I hadn't --  
2 to understand the issue on -- associated with the Wheaton CBD. You're saying that's an  
3 all enterprise zone, and therefore exempt from impact taxes?  
4

5 Mr. Faden,

6 We think -- I can't swear to this. I think the enterprise zone is coextensive with the CBD;  
7 we'll check on that.  
8

9 Councilmember Floreen,

10 If you could look at that.  
11

12 Mr. Faden,

13 And it is -- wherever the enterprise zone is, is exempt from all impact taxes under  
14 current law and the school facilities payment.  
15

16 Councilmember Leventhal,

17 But not all metro stations are enterprises.  
18

19 President Praisner,

20 No.  
21

22 Councilmember Floreen,

23 So I would like to understand that implication for Wheaton. I would like to -- under our  
24 different scenarios, the implications for Glenmont -- under the different scenarios.  
25 Because I think -- is Glenmont served by Kennedy?  
26

27 President Praisner,

28 Yes.  
29

30 Councilmember Floreen,

31 And there is a Bethesda issue. Well, Mrs. Praisner, I'm just -- depending on when you  
32 calculate it, I'm not sure. But if I'm wrong, fine.  
33

34 President Praisner,

35 What? I'm sorry. I wasn't [inaudible] to you, I was shaking my head to someone in the  
36 audience and [inaudible] assigned to Wheaton [inaudible].  
37

38 Councilmember Floreen,

39 I think there's a Bethesda CBD issue buried in these variety of options, so I would like to  
40 understand that. And also the Clarksburg issue which is not a transit station issue, but I  
41 think more or less a moratorium/dollars issue. And under the different recommendations  
42 that we have, it's very difficult to -- on the PHED Committee, we've recommended  
43 different timeframes in which these standards would be applied, which has different  
44 moratorium implications. And so that is part of it, as well as the cost issue which is I



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1 think what George was getting at. So I would like to under -- it's difficult for me to explain  
2 it to the rest of the world without understanding this point. Most folks don't think in terms  
3 of school cluster as much as they think of it in terms of a policy area or a community  
4 area. So if there's a way to translate this, I would very much appreciate it.

5  
6 President Praisner,

7 Okay, I think we've the question. The point is how to present it because there are  
8 variables and things will have to be caveated (sic) and asterisked. In anything, I think it  
9 would be important to show what is currently the payments versus what is proposed,  
10 because I don't want this to look like it's a vacuum. Councilmember Leventhal, you're  
11 next.

12  
13 Councilmember Leventhal,

14 I want to make a very quick point, Madam President. I know you had said that we would  
15 end around this time. And I can't emphasize enough how interesting and important it is  
16 to me that I now understand that a school facilities payment has been required under  
17 the law since 2003, and no one has had to pay it. No one has applied for a project that  
18 would come under it.

19  
20 President Praisner,

21 No, no one had to pay it because we're not in a situation where they would to.

22  
23 Councilmember Leventhal,

24 We are not in a situation where they would need to, okay. I do follow that. But adequacy  
25 was determined under the 2003 policy at 100% for high schools and 105% for middle  
26 schools and elementary schools, which is lower than what anyone is proposing now.

27  
28 Mr. Orlin,

29 No but that was -- that's based on growth policy capacity, not program.

30  
31 President Praisner,

32 No that was pro -- that was the growth policy not program policy.

33  
34 Councilmember Leventhal,

35 You're now taking program. Okay. Okay. However, the point remains.

36  
37 President Praisner,

38 And we also put a lot of money into the Capital Budget to provide the capacity so we  
39 didn't do it.

40  
41 Councilmember Leventhal,

42 We did do that. Let us hope we can continue to do that. But the point remains -- the  
43 point remains that this requirement has been in place and no one has come under it. No  
44 one has had to pay it. I think that's important for two reasons. First of all, perhaps it will



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1 give some comfort to the building industry because who knows, we can impose  
2 whopping huge taxes for a hypothetical situation that may or may not arise. It did not  
3 arise over the last four years. I know that when we adopted the growth policy four years  
4 ago, we didn't know that this would never come up; we assumed that there might be  
5 some projects in which it might come up.

6  
7 President Praisner,

8 No, I disagree. I think we knew from the Capital Budget that it wasn't going to have an  
9 effect.

10  
11 Councilmember Leventhal,

12 Well, that gets to my second point which is related, which is the Chairman pointed out  
13 another very important point, which is -- and I'm not quoting him exactly, I wish I had  
14 taken notes. It's five years or so from when the subdivision is first approved to when a  
15 home actually appears in the ground.

16  
17 Mr. Hanson,

18 Well, some homes -- before the project is built out, yeah.

19  
20 Councilmember Leventhal,

21 For the most part. You got a long lag time.

22  
23 Mr. Hanson,

24 There's a substantial lag time. So it's now the fall of 2007. We tried to tighten the 2003  
25 growth policy in the fall of 2005, but some votes fell away at the end and it didn't actually  
26 occur. But the assertion has been made repeatedly that as a result of the 2003 growth  
27 policy, an extraordinary number of new cars are on the road, an extraordinary number  
28 of new kids are in the schools, and that our misery as a result of these facts is the result  
29 of the 2003 growth policy. The timeframe that the Chairman suggests would indicate  
30 that that isn't so, that there aren't actually many houses today or children today or cars  
31 on the road today that would not otherwise have been there had the 2003 growth policy  
32 been in effect. And in fact, if you look at the pre-2004 test on this point and on other  
33 points as well, the 2003 growth policy did tighten a number of these measurements,  
34 okay, not policy area review. So I'm in -- I'd like to assess what happened. I'd like to  
35 understand the impact in real -- a real understanding, not a rhetorical understanding of  
36 what was the real effect of what we did in 2003. I don't assume that it was the right  
37 policy or that it was a great policy, or that it can't be improved upon; but these two facts  
38 suggest to me, number one, the fact that it takes five years or so before anything  
39 actually appears and therefore before anyone actually lives here, that's new as a result  
40 of the things approved since that time. And number two -- and don't forget, when we  
41 build in the lead time, the 2003 growth policy didn't even take effect in the fall of 2003.  
42 And then secondly, that no one has had to pay this school facilities payment  
43 understanding that it's a different measurement, understanding it's a different standard.  
44 So the suggestion that a whole lot of areas have dramatically exceeded capacity



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1 because of the 2003 growth policy, the facts would indicate not. Because if so, there  
2 would have been projects that would have had to pay the facilities payment, even  
3 though we're adjusting the test, even though we're changing the measurement.  
4

5 President Praisner,  
6 George, fine. Valerie, your light's on?  
7

8 Ms. Ervin,  
9 I just want to make a quick comment while Bruce Crispell is here. He's the MCPS  
10 demographer, and I think something that we haven't heard from the table this morning is  
11 the huge demographic shifts that we are seeing in our County. And when I look at -- and  
12 this speaks to Mrs. Floreen's comment about looking at geographical context that even  
13 looking at some of the school clusters that are over capacity, there might have been  
14 very little new development in some of these communities. Yet, we still have a large  
15 number of families and students moving into these in-fill areas of the County, like  
16 Wheaton, like Silver Spring, and other areas. And so, you know, how do we build that  
17 into this conversation? Because we're not adding new single family houses that I know  
18 of in Takoma Park or Silver Spring and a lot of areas I represent. So what is the context  
19 for that and how do we look at that to make some of these determinations? Because  
20 people are still moving into our County, but we are not building new single family homes  
21 in some of these neighborhoods.  
22

23 Mr. Crispell,  
24 That's why we have pointed out that about 85% of enrollment growth is just turnover,  
25 existing homes and re-rental of rental units. New development is a fraction really of the  
26 cause of enrollment growth.  
27

28 Councilmember Ervin,  
29 The funny thing is because clearly what's happening is not explainable by what we are  
30 seeing in some of these documents. What's happening is that people are doubling up,  
31 people can't afford rent, they can't afford mortgage, so we are seeing -- you all are  
32 having a hard time counting these children. Clearly, we came in this year with higher  
33 numbers of student enrollment that we thought we were going to have for the very same  
34 reason. So what I'm saying is that I think that we need to sort of build a context for this  
35 conversation in terms of how we talk about this in our communities as this goes forward.  
36

37 President Praisner,  
38 Okay. I don't see any other lights on the school facilities tax. What we're going to do  
39 now is break for lunch. When we come back, Councilmember Trachtenberg has raised  
40 a point, and I think it's a good one. I think we will move to the schools finance piece next  
41 so that -- because folks have tied them together. We will leave the recordation tax aside  
42 though. We will talk about the school finances. I'll turn it over to Councilmember  
43 Trachtenberg. And then we'll go back to the transportation test and the finances  
44 associated with that. We will be back at 1:30. Thank you.



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**TRANSCRIPT**  
**October 23, 2007**

**MONTGOMERY COUNTY COUNCIL**

**PRESENT**

Councilmember Marilyn Praisner, President	Councilmember Michael Knapp, Vice-
President	
Councilmember Phil Andrews	Councilmember Roger Berliner
Councilmember Marc Elrich	Councilmember Valerie Ervin
Councilmember Nancy Floreen	Councilmember George Leventhal
Councilmember Duchy Trachtenberg	



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1 Council President Praisner,  
2 But we have five Councilmembers. And I believe it is appropriate to begin. So we're  
3 going to start this afternoon as I modified slightly at the suggestion of Councilmember  
4 Trachtenberg. We're going to start with the revenue issues associated with the schools  
5 test. And I'll turn it over to the Chair of the Management and Fiscal Policy Committee.

6  
7 Councilmember Trachtenberg,  
8 Thank you, Madam President. I had asked to do this because it seemed to me while  
9 information was fresh in our minds about the school test that we actually take a look at  
10 what the MFP Committee recommendation would be around the School Impact Tax.  
11 And I would call attention to page 13 in the packet that was provided by staff in the  
12 packet marked agenda items five, seven and eight. And if you look at the table on the  
13 bottom of that page, you'll see some exact numbers. Again the recommendation which  
14 was unanimous amongst Committee members was to raise the School Impact Tax rate  
15 to reflect 90% of the system-wide marginal cost. And we had done that with the  
16 Transportation Tax. And so again the rates are itemized in that chart. And another  
17 decision that was made, again unanimously, by the Committee was that we would raise  
18 the surtax from a dollar per square foot to two and that we would lower the floor for the  
19 surtax from 4500 to 3500 square feet. And the third element that I would report to you  
20 was around the cost inflation and there was some lengthy discussion about whether or  
21 not we should use the consumer price index and it was agreed that we would actually  
22 base the adjustment on a published construction cost index, again to be specified by  
23 executive regulation. Again, this was a rabbit that was pulled out of Dr. Orlin's hat, but  
24 one that had consensus of Committee members. And the final element to share would  
25 be that this tax would apply to each building permit for which an application was filed on  
26 or after December 1st. Again that's similar to what we identified for the Transportation  
27 Tax. So those are the specific elements of the recommendation from the MFP  
28 Committee.

29  
30 Council President Praisner,  
31 Okay. The only comment I wanted to add is we're talking about, in talking about the  
32 indexing issue, there were a variety of options including the CPI which we have used  
33 before and suggestions about using the state of Maryland's School Construction  
34 Program or other construction inflation, construction indicators. And in the end that  
35 suggestion which I think Jennifer Barrett also said is doable was to find some specific  
36 index on construction that is already available, already used that would be appropriate  
37 but not to use the school test for the state of Maryland because of problems that we and  
38 other jurisdictions have had with the relevance or relationship to construction costs  
39 here. So I don't see any lights. Okay. George?

40  
41 Councilmember Leventhal,  
42 Did the Committee discuss the affordable housing issue on the middle of page 12?

43  
44 Council President Praisner,



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1 Yeah. I believe we did, in general.

2  
3 Councilmember Trachtenberg,  
4 Okay.

5  
6 Council President Praisner,  
7 In both cases.

8  
9 Councilmember Trachtenberg,  
10 Right. And we did speak about it in general. And I am assuming that what you're  
11 referring to is perhaps the exemption that could occur for nonprofits.

12  
13 Councilmember Leventhal,  
14 Well according to the staff packet here, the County Executive proposes that where you  
15 have a project where the number exceeds 30%, the number of units that are affordable  
16 exceeds 30% and then the executive's proposal was the project is being undertaken by  
17 a nonprofit, the Housing Opportunities Commission according to staff made the same  
18 recommendation with respect to a project with a very large percentage of affordable  
19 housing regardless of whether it is being undertaken by a nonprofit and the Committee's  
20 recommendation does not take that step as I understand it.

21  
22 Councilmember Trachtenberg,  
23 Exactly. Yeah, we decided not to take that step at this time.

24  
25 Council President Praisner,  
26 I think the proposal was to keep what we have now, which is to exempt the units but not  
27 the -- .

28  
29 Councilmember Leventhal,  
30 Not the whole development.

31  
32 Council President Praisner,  
33 Not the whole development.

34  
35 Councilmember Trachtenberg,  
36 Exactly. To just leave it as is.

37  
38 Councilmember Leventhal,  
39 Okay. And is it the Council President's intent, any way you handle this is fine, I'm just  
40 trying to keep up with it. There's a lot of moving parts.

41  
42 Councilmember Trachtenberg,  
43 Sure.





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1 Councilmember Leventhal,  
2 At this moment we're only talking about the School Impact Tax.

3  
4 Council President Praisner,  
5 Right.

6  
7 Councilmember Trachtenberg,  
8 Correct.

9  
10 Councilmember Leventhal,  
11 Do the Council President and Chair Woman Trachtenberg intend to then go on to talk  
12 about Transportation Impact Tax or Recordation Tax or we're going to go back.

13  
14 Council President Praisner,  
15 We're going to go back to Transportation.

16  
17 Councilmember Leventhal,  
18 We're going to go back and forth. So we're going to talk about Transportation -- .

19  
20 Council President Praisner,  
21 The reason we did this now was because the suggestion was it was related and we talk  
22 about all schools at the same time.

23  
24 Councilmember Leventhal,  
25 I agree, that's fine.

26  
27 Council President Praisner,  
28 Then we'll go back and look at the transportation piece and talk about the transportation  
29 pieces at the same time.

30  
31 Councilmember Leventhal,  
32 Okay. And then so should we assume that for next week when we are actually making  
33 votes that the order, and I would actually recommend, I think it's a good order, so we  
34 would do School Policy, School Taxes, Transportation Policy, Transportation Taxes,  
35 Recordation Taxes? It helps us to sort of conceptually think -- .

36  
37 Council President Praisner,  
38 The only problem is the revenue pieces are all in one Bill. There isn't a separate Bill but  
39 we can -- I'll talk -- I'll take it under advisement and work with staff.

40  
41 Councilmember Leventhal,  
42 But the problem is the memo doesn't group them together.

43  
44 Council President Praisner,



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1 I understand the point, the relationship issue.  
2  
3 Councilmember Leventhal,  
4 Okay. Okay.  
5  
6 Council President Praisner,  
7 I understand your point.  
8  
9 Councilmember Leventhal,  
10 A big challenge here.  
11  
12 Council President Praisner,  
13 Yes.  
14  
15 Councilmember Leventhal,  
16 Is.  
17  
18 Council President Praisner,  
19 Keeping all the pieces--.  
20  
21 Councilmember Leventhal,  
22 What is the total cost that we are imposing on a new home? That is what I want to  
23 understand. And the memo doesn't do that. So we're talking about school taxes but we  
24 also need to understand the impact of the combined taxes.  
25  
26 Unidentified  
27 Right.  
28  
29 Council President Praisner,  
30 Well I understand. And Mr. Faden wanted to comment on that.  
31  
32 Michael Faden,  
33 We will, as requested this morning, we will produce a supplementary packet probably  
34 before the end of this week just showing for typical examples. And anybody who wants  
35 a specific scenario should tell us what the total cost would be.  
36  
37 Councilmember Leventhal,  
38 Thank you.  
39  
40 Michael Faden,  
41 We should also at this point ask people to remember to keep these packets because we  
42 won't be redoing them. These packets are the base so far for--.  
43  
44 Council President Praisner,



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1 This is an environmentally sensitive Council.

2  
3 Michael Faden,  
4 Right.

5  
6 Council President Praisner,  
7 We are all committed to saving trees so we will keep these packets. And you make a  
8 good point George about the progression of motions and actions next week. I think  
9 that's very useful. Okay. Are we done then? Oh, I'm sorry, there are other lights.  
10 Councilmember Floreen.

11  
12 Councilmember Floreen,  
13 Thank you. I had a question about the affordable, well, what I'm understanding is the  
14 Committee did not recommend any changes to the, how we treat affordable housing  
15 right now which is that as I understand it MPDUs are exempt from the School Tax.

16  
17 Michael Faden,  
18 Correct.

19  
20 Councilmember Floreen,  
21 The School Impact Tax. What other exemptions are there out there? I hadn't fully  
22 appreciated the enterprise on the issue. So, that exempts, if you're in an enterprise zone  
23 you are not be subject to any of the Impact Taxes.

24  
25 Michael Faden,  
26 Right.

27  
28 Councilmember Floreen,  
29 Is that, are there any other exemptions?

30  
31 Michael Faden,  
32 Yeah. If you go to circle 39 of that packet. The revenue packet.

33  
34 Councilmember Floreen,  
35 39?

36  
37 Michael Faden,  
38 Yeah, the School Impact Tax law is actually there and the exemptions I believe are  
39 completely identical to the Transportation Impact Tax but they are shown in subsection  
40 C and to a lesser extent D on the next page on circle 39 subsection C and they are  
41 MPDUs, sub MPDU housing, affordable housing in the true sense. That's C 2.

42  
43 Councilmember Floreen,  
44 Sure. Okay.



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1  
2 Michael Faden,  
3 Housing affordable by less than people below 60% of median income. PLQs which  
4 meet the MPDU eligibility standards, opportunity housing project which meets the  
5 MPDU eligibility standards and anything in an enterprise zone. And then sub D is  
6 basically reconstruction. You essentially pay the tax on the added, if it is a  
7 reconstruction you pay the tax on the added space or added, in this case added  
8 dwelling units.

9  
10 Council President Praisner,  
11 And I think it is two pieces point too.

12  
13 Michael Faden,  
14 Sure.

15  
16 Council President Praisner,  
17 There are exemptions meaning you don't pay and then there are different grades.

18  
19 Michael Faden,  
20 Correct.

21  
22 Council President Praisner,  
23 That are based on a variety, the type of house, the type of function being done et  
24 cetera.

25  
26 Michael Faden,  
27 But the rates are shown.

28  
29 Council President Praisner,  
30 Senior housing.

31  
32 Michael Faden,  
33 The rates are shown on circle 41, multifamily senior housing has a zero rate because  
34 obviously they don't produce students. In addition here the productivity housing in  
35 subsection C of that section pays the tax of 50% of the rate. None of this takes into  
36 account work force housing which came along after the last set of amendments to the  
37 Impact Tax and of course we still don't have any work force housing so that can be a  
38 subject that you don't absolutely have to deal with at this point.

39  
40 Council President Praisner,  
41 Further questions?

42  
43 Councilmember Floreen,  
44 Okay, no that's it, thank you.



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1  
2 Council President Praisner,  
3 Okay. Councilmember Leventhal.

4  
5 Councilmember Leventhal,  
6 I anticipate from me and possibly from other Councilmembers that there would be  
7 interest next week in discussing this affordable housing issue in a little greater depth.  
8 And I would like to request if staff could get ready for us some options there in case  
9 there were votes here in the full Council to adopt some of these options.

10  
11 Council President Praisner,  
12 Right.

13  
14 Councilmember Leventhal,  
15 And it would seem to me just very quickly that -- .

16  
17 Council President Praisner,  
18 To the extent you have any, it would be helpful to ask staff specific.

19  
20 Councilmember Leventhal,  
21 That's what I'm doing now.

22  
23 Council President Praisner,  
24 Right, great.

25  
26 Councilmember Leventhal,  
27 I mean, for example, you know, if there were a middle ground, one possibility might be  
28 since I understand under existing law only those MPDU units themselves are exempt,  
29 but I also understand that the economics of these projects are very tricky and the  
30 developers do bear some significant burden when they are providing a very large  
31 percentage such as 30% or more of affordable units, an option might be to exempt them  
32 altogether as HOC and the County Executive have described. Another option might be  
33 to keep current rates for the non MPDU units for those projects with 30% or more. And  
34 you know, I guess I would like obviously to have the lightest possible burden on projects  
35 that bring about, and I don't think I'm alone in this, the largest possible number of  
36 affordable units. And therefore I would, I think we will talk about it next week, vote for  
37 whatever we can do to bring about that lightest burden. If the sense of the Council were  
38 what the sense of the Committee was, well, that's that. But if the Council could be  
39 persuaded to move somewhat more in the direction of what the County Executive and  
40 HOC have proposed, how far would we go? We should map out a couple different  
41 options. So, one option would be the County Executive's proposal which would be  
42 nonprofits only. Another option would be HOC's proposal which would be any project  
43 with 30% or more affordable. A third option would be a middle ground proposal which  
44 would be keep existing rates for those units that are not the affordable units. And I'd



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1 like, if we could just get those mapped out we might have that, see where the votes are  
2 next week.

3  
4 Council President Praisner,  
5 Good. Thank you. That's fine. Councilmember Floreen.

6  
7 Councilmember Floreen,  
8 Yes, well, while we're discussing this, the other issue would be how you handle work  
9 force housing as an option as well. The Affordable Housing Conference recommended  
10 that work force housing be charged at a 50% rate and I think I would like to see that as  
11 part of the mix of proposals. On this overall issue of affordable housing, I have another  
12 element to the mix that I would like to have for discussion next week which would be to  
13 exempt affordable housing units from the schools test altogether. [inaudible]. Yes. Well,  
14 to, no, no, the schools test.

15  
16 Michael Faden,  
17 Oh, the test.

18  
19 Council President Praisner,  
20 [multiple speakers]. -- even apply the test to them.

21  
22 Councilmember Leventhal,  
23 Oh, now we're back to test --.

24  
25 Councilmember Floreen,  
26 Two options would be.

27  
28 Councilmember Leventhal,  
29 We're jumping back and forth.

30  
31 Councilmember Floreen,  
32 One would be the affordable units themselves and another would be the entire project  
33 which would be, could parallel the tax treatment.

34  
35 Council President Praisner,  
36 If I understand what you're saying Nancy though, is what you're suggesting is not the  
37 revenue piece.

38  
39 Councilmember Floreen,  
40 Yeah, that's right.

41  
42 Council President Praisner,



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1 But the processing of the calculation of units and what you're suggesting is if it is an  
2 affordable unit it wouldn't get looked at from a standpoint of calculating it as its impact  
3 on a cluster or an area.

4  
5 Councilmember Floreen,  
6 That's correct.

7  
8 Council President Praisner,  
9 Okay.

10  
11 Councilmember Floreen,  
12 And I just wanted to mention now since we appear to be at the point of leaving the  
13 schools area, and make the point that the tighter we make certain things, the more we  
14 impinge on other important public policies. And I think if there is anything that we at  
15 least collectively say is that we all support the provision of affordable housing. So the  
16 question is how do we get there under these range of scenarios? And I would at least  
17 like to have that on the table for conversation next week. Thanks.

18  
19 Council President Praisner,  
20 More George? That's it? Councilmember Trachtenberg, you had something?

21  
22 Councilmember Trachtenberg,  
23 Yeah, actually just a request of staff. When we addressed this within Committee, I don't  
24 know that we exhausted all other options and one thing I would ask staff to do is a little  
25 research. I know from some of the conversations that I had prior to the discussion  
26 yesterday that there seemed to be some creative measures that were implemented out  
27 in King County around affordable housing and I wondered if we could do a little  
28 research just for comparison. I'm not again suggesting that we take the step of adopting  
29 any of them but I think for a comparison's sake, it would be worth looking at that  
30 information.

31  
32 Michael Faden,  
33 We'll have our west coast office get right on that.

34  
35 Councilmember Trachtenberg,  
36 No. And I can probably give you specifics about the two or three things that I'm thinking  
37 of. Again I didn't choose to raise them yesterday but if we are going to have a  
38 substantive conversation, I would like to at least put several options on the table.

39  
40 Michael Faden,  
41 Right.

42  
43 Councilmember Floreen,  
44 -- King.



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Council President Praisner,  
Yes.

Councilmember Trachtenberg,  
Not necessarily.

Michael Faden,  
Produce some, we'll produce a package of affordable housing options in which we'll suggest applying to both Impact Taxes.

Council President Praisner,  
And the test.

Councilmember Floreen,  
And the test.

Michael Faden,  
Yeah. Which is a separate but related issue.

Council President Praisner,  
The, Councilmember Berliner makes a point and I think it is a valid one. As you put or discuss different options, there were recommendations not to consider certain options from staff's perspective and I think that would be helpful for us to have as well within the context or make those comments now but I think it would be better since we are going to have the discussion next week to probably have the benefit of your comments at that point.

Michael Faden,  
Just very.

Council President Praisner,  
Go ahead.

Michael Faden,  
Very briefly, our fundamental recommendation is to pay for housing through the front door rather than the back door.

Council President Praisner,  
Right.

Michael Faden,  
To minimize exemptions especially of market rate or near market rate units and if they need to be subsidized, do so directly.





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Council President Praisner,

That leads to the point that I had asked other staff to do for me for another purpose. But it seems to me it would be useful for you to make a list of the other ways in which we provide relief from other fees for affordable housing units, including payment in lieu of taxes for the property tax and the estimate of the cost, the quantity of the dollars associated with that and the list like system development charge, et cetera.

Councilmember Floreen, additional?

Councilmember Floreen,

Yeah, well I just want to say, staff mentioned we would rather pay for it through the front door rather than through the back door approach, which I don't think anyone disagrees with but you've got to get to the front door. And we're not even talking about impact fees if you can't even get to be considered and that is my point with respect to the test. It is one thing, in particularly in the places where we would like them to occur --.

Council President Praisner,

Okay. Shall we now move back? Are we done with schools and that piece and we can move back to the Growth Policy itself and move on to the transportation issues?

Glenn Orlin,

Did you want to say anything about design excellence or sustainability --?

Council President Praisner,

Yeah, I'll be happy to say that now since you keep urging me to, I might as well. And Mary is here.

Councilmember Leventhal,

Thank you.

Council President Praisner,

I know Mary has to leave and therefore the suggestion is made that I -- .

Councilmember Leventhal,

Looking out for staff.

Council President Praisner,

The suggestion was made that I make some comments and ask Dr. Hanson to also make some comments. I am mindful though that there are Councilmembers who have to leave earlier in the day and I don't want to leave them without having some of the conversation.

Councilmember Leventhal,



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1 Could I say with greatest respect to Dr. Hanson, this is a topic about which he's very  
2 passionate but brevity is the soul of wit.

3  
4 Council President Praisner,  
5 On this issue, all I was going to --.

6  
7 Councilmember Leventhal,  
8 Design excellence and sustainability.

9  
10 Council President Praisner,  
11 Yeah. [multiple speakers]. The only point that I was going to make on this and I do want  
12 to make this very brief is that there is significant interest in moving to the issue of having  
13 guidelines and discussion on the issue of design and design excellence and so work will  
14 be done on that. It is not prepared as yet. We also have several pages and discussion  
15 within several of the packets on the issue of sustainability. And Councilmember Berliner  
16 and I added to that by discussing the issue of indicators associated with quality of life  
17 and to try to focus not on sustaining where we are, but to some extent improving where  
18 we are and also what are those indicators associated with quality of life sustainability  
19 that will require staff work and would be a separate conversation that we would be  
20 having after that work is done. And the anticipation is that this would involve the  
21 Planning Board, Executive Branch commenting on and providing some things for us.  
22 That's all I was going to say unless someone has something burning that they need to  
23 say associated with it. Royce or Mary, because I want to move on to transportation.

24  
25 Royce Hanson,  
26 I hope you'll do it.

27  
28 Council President Praisner,  
29 Okay. Great. Thank you. All right .

30  
31 Councilmember Trachtenberg,  
32 One sentence.

33  
34 Council President Praisner,  
35 Let's, I think it's an understatement to say that most if not all of the discussion and  
36 debate that occupied significant amount of the PHED Committee and I believe also  
37 probably the Planning Board's discussion relates to the issue of transportation tests  
38 especially at the policy area but not exclusively. And as you will, Councilmembers who  
39 were here and other Councilmembers I'm sure who have since become informed about  
40 these issues know, there is also the discussion associated with the Local Area Review.  
41 And in 2003 when the policy area was eliminated and the local area was put in place,  
42 there were some tests put in place that were then proposed to be tightened even  
43 greater, even more in 2005. But unfortunately the Council did not reach closure and  
44 agreement on the 2005 modifications and, therefore, the Local Area Transportation



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1 Review, there were some proposals where there was some Council endorsement but  
2 not enough to modify the Growth Policy related to Local Area Review, which is as Dr.  
3 Hanson has indicated, the area that relates most directly and most immediately to the  
4 intersections around and the area around a development, the actual development.  
5 Council staff made a number of recommendations that are associated with the policy  
6 areas that looked at the specific tests for the intersections in those areas and in the  
7 discussion of that, the, what it relates to or would have as an outcome is the tightening  
8 of the standard in certain policy areas by reducing the Critical Lane Volume threshold  
9 associated with those intersections. The, that's the second bullet on page 7 of the policy  
10 document that is agenda item 4-6. And that's what I'm referring to. And there was not  
11 unanimity on that issue in the Committee but Councilmember Elrich and I do  
12 recommend going with staff's recommendations for tightening the standards in certain  
13 policy areas, Aspen Hill, Clarksburg, Clover Leaf, --, White Oak, Gaithersburg City,  
14 which obviously we calculate but there is very little of Gaithersburg City that is not the  
15 city of Gaithersburg but we do have policy areas associated with the municipalities.  
16 Germantown East, Germantown West, Montgomery Village, Airpark, North Potomac, --  
17 Potomac are R&D village policy areas which would be tightened by 25 Critical Lane  
18 Volumes and Damascus and the rural areas by 50 Critical Lane Volumes.  
19 Councilmember Floreen did not agree with those changes. They are listed on page 10  
20 as well. You can see the staff recommendations, the pre 2004, the current standards for  
21 those intersections and the staff recommendations for those intersections. In general  
22 the philosophy is that you can absorb or live with a greater level of congestion in the  
23 areas that are Metro Station policy areas. And in the downtown such as Silver Spring  
24 and Bethesda, that's why you see those areas, Bethesda, Chevy Chase, Silver Spring,  
25 Takoma Park, Kensington, Wheaton, and the unanimous Committee's recommendation  
26 to add Germantown Town Center as well as the Planning Board's recommendation to  
27 add Germantown Town Center to those thresholds, Metro Stations being 1800 Critical  
28 Lane Volume and the others at 1600. You then go by, I would classify them as  
29 groupings related to the type of area that we're referring to from characteristics, moving  
30 as much as, and the existence of infrastructure moving to the Damascus and the rural  
31 areas where the expectation is that the level is the lowest number, meaning the less  
32 capacity beyond the Metro, furthest away from a standpoint of conception as well as  
33 perhaps geography than the Metro Station areas where congestion can be absorbed at  
34 the intersections a little greater because of the additional capacity associated. The next  
35 test issue besides the local area standards that we discussed is the timeframe for the  
36 test. Again, Councilmember Elrich and myself are looking at the four year test going into  
37 effect upon approval of the Growth Policy and Councilmember Floreen recommends a  
38 five year test going into effect next July 1st. The next issue is whether we should require  
39 additional mitigation where existing and background traffic is above the standard. This is  
40 a concept that I believe is in place already in Prince George's County and other areas  
41 where existing plus background traffic exceeds the standard that is required for that  
42 area to require mitigation greater than the mitigation generated by the development.  
43 And staff can certainly provide more of the background on that, but again this was a 2 to  
44 1 as well within the Committee related to how much mitigation is required. The question



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1 was the scope of the LATR standards and the numbers or the scope as to the maximum  
2 peak hour trips generated and the minimum signal intersections that need to be looked  
3 at. This was an issue several years ago and it is something that we have continued to  
4 have conversation about. And it related more to making sure or having reassurance that  
5 when we talk about minimums, that that isn't a maximum or that there isn't an  
6 expectation the more of those could be looked at. And more from a site specific kind of  
7 review depending upon what makes sense beyond the minimum and how many  
8 signalized intersections, notice it's signalized, not unsignalized so you may have to go  
9 out fairly far in one direction to look for a signalized intersection depending upon where  
10 the development is. But Councilmember Floreen and I support the revisions to the  
11 signalized intersections to be tested in an LATR study. And I was going to vary the  
12 ranges. I don't, I thought I modified it in the end so that I'm okay with what's there. Okay.  
13 And Councilmember Elrich had a different set of intersection numbers to be looked at.  
14 The other issue relates to the question of queuing. And what we've discovered over the  
15 years is that there are certain situations where queuing from an adjacent intersection  
16 may be a factor in determining whether an intersection meets the LATR standard and  
17 the Planning Board, the recommendation was that the Planning Board include more  
18 specific guidelines in its LATR guidelines as to how the queuing might be considered in  
19 traffic studies. So that you have a fuller appreciation of the fact that an intersection may  
20 be affected by a situation at another intersection that affects the queuing associated  
21 with the actual intersection you wanted to study. Then the, I think, let's see, I'm trying to  
22 go through the packet. I think those are the issues related to the Local Area  
23 Transportation Review. The other issues that related to it related to the Georgetown  
24 Branch Trolley and the North Bethesda Transit Way. Those are specifically included  
25 within the Growth Policy, reference of the language is on page 13, that speaks to when  
26 and how to approach the additional capacity from these systems. The conversation  
27 within the Committee related to the actual practicality of the language versus what's  
28 going to happen anyway. And the majority of the Committee, again Councilmember  
29 Floreen and myself recommend deleting those provisions. Councilmember Elrich  
30 recommends leaving it in. I'll stop there to see if there are any comments or questions  
31 on those pieces before we go to Policy Area Review. I think that makes a good break.  
32 Councilmember Leventhal.

33  
34 Councilmember Leventhal,  
35 Thank you Madam President. I'm going to start with the last item first. I have questions  
36 about LATR generally also, but on this issue of the Purple Line and the North Bethesda  
37 Transit Way, I'd just like to hear from my colleagues in the Committee about what was  
38 the thinking there. This is an issue of great interest to all of us. And the Purple Line I  
39 hope is on the relatively near horizon. The North Bethesda Transit Way is quite some  
40 further in the future if ever. I support them both but I can certainly understand not  
41 granting any additional development capacity for the North Bethesda Transit Way. I  
42 could also understand not granting that for the Purple Line although I'm just trying to  
43 understand what did Committee members intend to achieve either by deleting or  
44 keeping the language? What's your goal?



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Council President Praisner,

Well, the comment was, why it appears here at all from the background of the history of its inclusion was more from an assurance level than an actual policy perspective and the staff recommendation about deleting it made, is more related to the fact that you are going to treat it the way it is suggested it would be treated and there is no need to include this language within the Growth Policy. That's my interpretation. I'll have Councilmember Floreen and Elrich make comments about their perspective. Nancy?

Councilmember Floreen,

Yes. Well, one thing it really just is sort of an anomaly, I think. It has been there what for 13 years, something like that and with arguable relevance to much of anything. So it's sort of a paper saving exercise. The point was made that once it gets into position to be counted, we can make a call at that point, how it is treated in any transportation analysis decision point of review where we would want to address it or in a later Growth Policy document. So there is that. Not to mention the fact that there is also the Corridor Cities Transit Way which is not in this category either. For no obvious reason other than they presumably didn't think of it, and consequently we're not behaving very consistently in this whole area. Nothing more than that at least from my perspective.

Councilmember Leventhal,

I'd be interested in Mr. Elrich's thoughts.

Councilmember Elrich,

I had a little different perspective on both those two projects. I think that there is certainly some hope in the case of Corridor Cities Transit Way that it's going to have some on unburdening upper 270 as you come to Shady Grove. How much help there is remains to be seen but it certainly, that was one corridor where it was pretty clear would have or should have an impact on transportation in general. The discussion around the trolley as it was initially called in the beginning days was how much real impact it would have on east west highway or any of the other roads going east west and how much you wanted to count it. And I think it was the current County Executive who I think put this amendment in there out of reflecting the very great concern that we would do a calculation on the Purple Line as having some net benefit to removing cars from the road when in fact the studies indicated it would not remove those cars from the road. It was more being done to address what you might call transit inequality, the notion that we you know, we build the road to facilitate people's long commutes and doing the Purple Line in a sense would substantially reduce transit commutes for people. So there is a skepticism over whether you should count the impact of this when the data didn't seem to show there was going to be a lot of impact on local roads. So, the reason I would like it leave it out is to see what the actual, leave it in I mean is to see is to what it actually does before we count our chickens before they hatch.

Councilmember Leventhal,



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1 Yeah. Well, let me propose the following because we're just kind of getting ready for  
2 next week.

3  
4 Council President Praisner,  
5 Yeah, right.

6  
7 Councilmember Leventhal,  
8 It seems to me this, as a matter of principal, I absolutely agree that we should not be  
9 putting a whole lot of development in the ground based on expected transportation  
10 capacity from any transit project that is as speculative and in the far distance as any of  
11 the three Purple Line, Corridor Cities Transit Way or especially North Bethesda Transit  
12 Way which there's not even, I mean, no work has been done, no study, nothing at the  
13 state level. So I mean, and my concern although I appreciate I'm going to describe them  
14 as sort of housekeeping points made by the Council President and by Ms. Floreen. That  
15 is, it's in congress. There's nothing else in the Growth Policy like it. You're just trying to  
16 sort of clean up the document if I'm hearing you correctly. And that makes sense. I  
17 understand how we do that as legislators. My concern by removing it, knowing the  
18 raging debate that's taking place down County over the Purple Line, is that our  
19 removing it will be misinterpreted. That somehow the evil County Council is trying to  
20 open the door to vast huge development before the Purple Line is even built. And so,  
21 what I would like to ask for is another option that conveys the first principle that I  
22 expressed, that is we should not be having significant development capacity in reliance  
23 on a transit line which remains in the far distance. As a principal I think that's correct.  
24 But we might as well mention Corridor Cities too. Why leave it out? Let's rename  
25 Georgetown Branch Trolley, nobody calls it that anymore, let's call it the Purple Line.  
26 But I would be, rather than invoking these fears in the community, which if you're  
27 reading the e-mails and the blogs and the -- that I'm reading, I assure you this will be  
28 misinterpreted if you take this language out.

29  
30 Councilmember Knapp,  
31 Can I make a point?

32  
33 Council President Praisner,  
34 Yes.

35  
36 Councilmember Leventhal,  
37 And then I want to get back on the other LATR points if I could reclaim my time after the  
38 Vice-President.

39  
40 Council President Praisner,  
41 Sure, right, okay. That's fine.

42  
43 Councilmember Knapp,  
44 Just --.



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1  
2 Council President Praisner,  
3 Vice-President Knapp.

4  
5 Councilmember Knapp,  
6 One of the issues that we're wrestling with I think on both of these transit projects is to  
7 show projected ridership numbers that actually make them viable. And so while in  
8 principle I agree that we shouldn't be increasing the density hoping that we get a  
9 project. By the same token, ironically, we don't get a project unless we can actually  
10 show some measure of density that gets you to the right ridership numbers.

11  
12 Councilmember Leventhal,  
13 But for the Purple Line the density's already there. You're not going to get a whole lot  
14 more. There may be more but there is density now --.

15  
16 Councilmember Knapp,  
17 Well, I know, but it is just one of those things that you kind of end up stuck with the dog  
18 chasing its tail. And so while on the one hand I agree with your statement. On the other  
19 hand, do we then put ourselves further behind because you're not going to show the  
20 right projections and so therefore you can't justify the projects.

21  
22 Councilmember Leventhal,  
23 I mean, I'm going to leave here in a little while to get to College Park. I wish I could take  
24 the Purple Line to get there.

25  
26 Councilmember Knapp,  
27 Yeah.

28  
29 Councilmember Leventhal,  
30 There is going to be a lot of ridership on the Purple Line.

31  
32 Councilmember Knapp,  
33 But I put that out there for, I mean, it is -- quandary.

34  
35 Royce Hanson,  
36 From a practical point of view, it makes no difference whatever.

37  
38 Councilmember Leventhal,  
39 This language makes no difference.

40  
41 Royce Hanson,  
42 Makes no difference.

43  
44 Councilmember Leventhal,



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1 What about my point --.

2  
3 Royce Hanson,  
4 There is no way that we're going to approve a subdivision.

5  
6 Councilmember Leventhal,  
7 Right.

8  
9 Royce Hanson,  
10 On the basis of something that neither exists nor is programmed.

11  
12 Councilmember Leventhal,  
13 Yes. But if we delete this language. [multiple speakers]. If we delete this language, any  
14 opportunity the opponents of the Purple Line can use to describe our interest in the  
15 Purple Line as a nefarious plot, I assure you it will be misinterpreted. If you delete this  
16 language, our action to delete this language will be taken as evidence of some  
17 inappropriate goal in building the Purple Line. I guarantee you. [multiple speakers]. I  
18 guarantee you.

19  
20 Royce Hanson,  
21 As one long familiar with legislative language, harmless hortatory provisions.

22  
23 Councilmember Leventhal,  
24 Are harmless and hortatory.

25  
26 Royce Hanson,  
27 Are harmless and hortatory.

28  
29 Councilmember Leventhal,  
30 Okay, let me, can I ask a question about LATR now?

31  
32 Council President Praisner,  
33 Let me see if any of the lights that are on relate to this paragraph before we get to that.  
34 Councilmember Trachtenberg on this paragraph?

35  
36 Councilmember Trachtenberg,  
37 Yeah, actually, I would agree with your instinct, George. Again, I wouldn't want to do  
38 anything to upset the community and quite frankly as Councilmember Elrich just pointed  
39 out to me, the reason they're in there is precisely for the reason of underscoring support  
40 from this body. So I have a hesitation of changing the mix.

41  
42 Councilmember Leventhal,  
43 No. Mr. Leggett. That wasn't -- he didn't support it.





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1 Council President Praisner,  
2 It wasn't, it wasn't, it wasn't out of support for the Purple Line that this was offered.  
3  
4 Councilmember Leventhal,  
5 No, he was most certainly not. He was an active opponent back in those days.  
6  
7 Council President Praisner,  
8 Well, yeah, but the initial motivation was not related to support.  
9  
10 Councilmember Leventhal,  
11 Not related to support.  
12  
13 Councilmember Trachtenberg,  
14 Yeah, but at the end, it was.  
15  
16 Councilmember Leventhal,  
17 Okay.  
18  
19 Council President Praisner,  
20 Council Vice-President Knapp's light's on. Is this related to this?  
21  
22 Councilmember Knapp,  
23 LATR--.  
24  
25 Council President Praisner,  
26 Okay. George.  
27  
28 Councilmember Leventhal,  
29 Okay.  
30  
31 Council President Praisner,  
32 LATR.  
33  
34 Councilmember Leventhal,  
35 So, what I'm trying to understand, first of all I'm trying to get my mind around all of these  
36 things.  
37  
38 Council President Praisner,  
39 Yeah. Sure. That's what today is for.  
40  
41 Councilmember Leventhal,  
42 With, I thought staff, I congratulate staff for the clarity of the first section on the public  
43 school adequacy test. I understood it better than I ever did before. So I thank you. You  
44 know where this is going. Okay. [multiple speakers].



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1  
2 Councilmember Trachtenberg,  
3 Is there coffee.

4  
5 Councilmember Leventhal,  
6 So we have competing proposals.

7  
8 Council President Praisner,  
9 There's a carafe.

10  
11 Councilmember Leventhal,  
12 From PHED Committee members, which intersections are going to be tightened, how is  
13 LATR going to be playing out? What I don't get is, okay, if you go with Committee  
14 member A, Committee member B, Committee member C, what is the effect on the  
15 number of housing units on the ground? Does it throw areas into moratorium?

16  
17 Council President Praisner,  
18 No.

19  
20 Councilmember Leventhal,  
21 I'm not getting the next step.

22  
23 Council President Praisner,  
24 No. No.

25  
26 Glenn Orlin,  
27 No. Local Area Review doesn't --.

28  
29 Council President Praisner,  
30 It deals with mitigation and it doesn't --.

31  
32 Glenn Orlin,  
33 Local Area Review doesn't put an area moratorium or not. It strictly says there are  
34 certain requirements you have to meet to be able to pass. Most of these changes are so  
35 small it is impossible to really say, in fact it has almost never been the case where a  
36 development doesn't happen as a result of a tightening of a LATR test.

37  
38 Councilmember Leventhal,  
39 Okay.

40  
41 Glenn Orlin,  
42 It usually means that there is more mitigation that has to be done.

43  
44 Councilmember Leventhal,



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1 Okay. Let's now have a definition of the term mitigation.

2  
3 Glenn Orlin,  
4 Mitigate, well, Dan should fill in too because Dan's got --.

5  
6 Council President Praisner,  
7 Mitigation, trip reduction. This is a good discussion.

8  
9 Royce Hanson,  
10 Before Dan says that I would just like to comment.

11  
12 Glenn Orlin,  
13 -- one of which is trip reduction.

14  
15 Royce Hanson,  
16 That our position is that the Critical Lane Volumes are set about right now and really  
17 don't need to be changed but then -- .

18  
19 Council President Praisner,  
20 But the changes that are being proposed are the ones that the Council had on its, by  
21 and large had on its action for resolution two years ago.

22  
23 Glenn Orlin,  
24 Right.

25  
26 Dan Hardy,  
27 The four types of trip mitigation that we talked about. One of them is actually trip  
28 reduction. So getting, entering into a binding agreement through the Planning Board  
29 and DPWT to take vehicles off the road. The second is something that's in the LATR  
30 guidelines now that's called non-auto amenities. And this is essentially a way to say by  
31 doing things that we believe are good public policy, building offsite sidewalks, bus  
32 shelters and the like, you can get essentially a credit against vehicle trips. You can  
33 provide non-auto amenities in exchange for having less of a calculated impact. That's  
34 what's been critiqued as not exactly taking the vehicles off the road but supporting those  
35 types of actions. The third thing you can do is you can build roadway capacity. In LATR,  
36 that's typically widen an intersection and the PAMR, that widen, you know, build new  
37 lanes on a road.

38  
39 Councilmember Leventhal,  
40 And that also qualifies as mitigation?

41  
42 Dan Hardy,



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1 That qualifies as mitigation. Correct. The fourth thing which is really new this year in  
2 terms of the PAMR process, is you can provide transit capacity by buying a bus and  
3 operating it for 12 years.

4  
5 Councilmember Leventhal,  
6 A shuttle bus.

7  
8 Dan Hardy,  
9 Shuttle bus or could be a, you know working with DPWT, doing a ride on bus.

10  
11 Royce Hanson,  
12 A ride on bus or a metro bus.

13  
14 Councilmember Leventhal,  
15 Is anyone doing that in the County?

16  
17 Dan Hardy,  
18 No because it hasn't been, we're proposing that as part of PAMR.

19  
20 Councilmember Leventhal,  
21 Okay, so let me ask you this now. Has some thought, some real thought, this is similar -  
22 - .

23  
24 Dan Hardy,  
25 Well, actually, let me qualify that through trip mitigation programs, private developments  
26 have run shuttles.

27  
28 Council President Praisner,  
29 Shuttles, not metros and ride ons.

30  
31 Councilmember Leventhal,  
32 That's what I thought. That's why I asked you about shuttles. Because I recalled  
33 discussion about shuttles in the past. Okay, let me ask this very quickly. This will be my  
34 last question on this point.

35  
36 Council President Praisner,  
37 Sure, that's okay. Take your time.

38  
39 Councilmember Leventhal,  
40 The question I had about schools, that is does the money from the facilities charge  
41 actually contribute to real capacity, now is relevant to what I want to ask about LATR  
42 mitigation. And here is the question. Let me just say this. Okay? I have to get where I  
43 have to get. I have to drop my kid at school. I have to pick up a prescription for my  
44 mother-in-law. You can make the most beautiful bus shelter in the world. It could have,



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1 you know, I don't care what's in it. It could have, you know 24 hour, 150 channels of  
2 cable TV. It could have air-conditioning. It could have leather seat. I'm not going to take  
3 the bus. So you can build the most beautiful amenity possible and most people still want  
4 to drive. First of all, you know, I have a new car and it is a lot nicer than any bus shelter  
5 you ever built. I mean, you get my point. Does mitigation really and truly persuade our  
6 automobile culture to get people out of their cars or is it just a nice thing to do? You  
7 know, it is a beautiful bike rack, it's a beautiful bus shelter, but people still aren't using it,  
8 they're still driving their cars. Is there evidence that shows that mitigation actually  
9 reduces trips?

10  
11 Royce Hanson,  
12 I think there is. I don't think we've, I don't know, maybe Dan does, of any statistical  
13 analysis on this. But it may not get you out of your car.

14  
15 Councilmember Leventhal,  
16 Yeah, but it gets some people out.

17  
18 Royce Hanson,  
19 But it may get your neighbor out of his car.

20  
21 Councilmember Leventhal,  
22 Well, that's what I'm asking you.

23  
24 Royce Hanson,  
25 Certainly there is a much greater likelihood of getting someone out of the car and on to  
26 the bus if there is a shelter rather than a mud hole to stand in while waiting for the bus.  
27 So and if there is a way to get to the bus stop without having to walk in the street.

28  
29 Councilmember Leventhal,  
30 Okay. Mr. Chairman, well said. But I heard you say may. Is there data --.

31  
32 Royce Hanson,  
33 I cannot guarantee you. I cannot guarantee you that some things will absolutely get  
34 someone out of the car. There is enough experience around, I think, that a number of  
35 these amenities do persuade a number of people to change their method of travel. I  
36 know that where very good biking facilities are available, that bicycle usership increases  
37 as a commuting system. There is I think substantial evidence that sidewalks and bus  
38 shelters provide some increase in public transportation usage. So, I don't know, Edgar  
39 may be able to comment on this on this or Dan.

40  
41 Councilmember Leventhal,  
42 Do mitigation measures actually mitigate?

43  
44 Council President Praisner,



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1 Edgar, introduce yourself please because you haven't been participating.

2  
3 Edgar Gonzalez,

4 Edgar Gonzalez, Deputy Director for Transportation Policy, in the County Executive  
5 Branch. All of these mitigation measures other than specific trip reductions are nice  
6 amenities to have. They are pretty. They are convenient. It makes possibly a few choice  
7 riders shift modes occasionally but there is no permanency to the effect. There is –  
8 relationship and I haven't seen any proof from anybody that says we are in fact taking  
9 cars off the road. We are, we have very aggressive programs to try to reduce, I mean  
10 single auto vehicle occupant coming to work. We do tremendous amount of work. I have  
11 been, was involved in my early years in a vanpool program, very aggressive. And it was  
12 always stagnant. We always, there was always the, we would create three vanpools  
13 and three vanpools would disintegrate somewhere else. All of these are very temporary  
14 in nature.

15  
16 Council President Praisner,

17 Well, if I can build on that though, the conversation that we had and some of the  
18 introductory comments that I made this morning were on the issues of trip reduction and  
19 trip mitigation and the fact that the appropriate regulations and implementation kinds of  
20 descriptions need a more rigorous review. That the Executive Branch has one person  
21 managing TMD type initiatives. Some of which are extremely successful, some of which  
22 are not, some of which are hard to get up and running. That it takes work for some of  
23 these things to work. And there is also I think some dubiousness about some of the  
24 measures and the comment I made within the Committee related to the mitigation in  
25 one, for one project that included changing light bulbs and LED, encouraging or  
26 requiring LED light bulbs and they were not even put in the area near where the project  
27 occurred and the question of whether it really meant that people were getting through  
28 intersections faster or lights did not go out, et cetera, is questionable. But the discussion  
29 we had within the Committee was the length of time that these requirements are in  
30 place, the strenuousness of those requirements, the confidence level of the ability, even  
31 if we don't have data directly, the confidence level of the ability of those items to work  
32 and the length of time in which, and the staff associated with supporting these kinds of  
33 initiatives. Knowing from my own perspective of things going on now at FDA, there are  
34 vanpools and special parking spaces and all of that but there also are a couple of  
35 master plans where staging and the split, modal split requirements are associated with  
36 whether development goes forward. And so we have a variety, we have a hodgepodge  
37 of elements and pieces and I think we have a desire for more rigor associated with that,  
38 more accountability, more monitoring and more support.

39  
40 Royce Hanson,

41 It might help if we have done some analysis both of the MRC facility in White Flint which  
42 has a trip mitigation and also the kind of a general approach that indicates first of all that  
43 the amenity element, there is probably more discussion of it than there is doing of it.  
44 Because the amount that, of credit that you can get for amenities is a very small



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1 percentage of your trip mitigation package. It is not, it ain't a big deal. The other kind of  
2 mitigation that you have to do can be a very big deal. And we can, you know, if Council  
3 wants, I think we have got it loaded. We can even show you some of that.

4  
5 Council President Praisner,  
6 Let's, I think because there are some Councilmembers who have to leave, I want to try  
7 to get through Policy Area Review and maybe we can come back to that issue if folks --.

8  
9 Dan Hardy,  
10 Which I think that really is as much a Policy Area Review issue as it is a Local Area  
11 Review.

12  
13 Council President Praisner,  
14 Right. I understand. That's why --.

15  
16 Edgar Gonzalez,  
17 And Ms. Praisner, one more comment. The County Executive in his letter to you, now is  
18 related to credit but in the discussion of credits, he specifically says these are the kinds  
19 of things that I believe credits are worth giving. Because of the permanency and the  
20 continuity of service. Those are real things.

21  
22 Council President Praisner,  
23 Well, and that was the conversation we had as it related to permanency versus 12 years  
24 and those issues. Other questions, George?

25  
26 Councilmember Leventhal,  
27 Not at this time.

28  
29 Council President Praisner,  
30 Okay. All right. Vice-President Knapp.

31  
32 Councilmember Knapp,  
33 Thank you, Madam President. This is always the fun part of the conversation especially  
34 if there is anyone still watching us on TV because we start talking about Critical Lane  
35 Volumes and LATRs and things that most people don't, I don't get most of the time. So  
36 from that perspective, one of the things I want to get a sense of is, we talk about the  
37 Critical Lane Volumes and the standards that have been proposed in Local Area  
38 Transportation Review. What does any of these numbers actually translate into that we  
39 could actually think about on the ground? I mean, as a for instance, if, I mean if we had,  
40 I don't know, if there is a 1450 what is?

41  
42 Council President Praisner,  
43 Either Dan or --. [multiple speakers].  
44



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1 Councilmember Knapp,  
2 Or a 1600. What does that mean practically to my commute into work this morning? Tell  
3 me an intersection that is a 1600.

4  
5 Dan Hardy,  
6 Yeah, I think in the old way of doing things, we have the A to F grade like the school  
7 system, 1600 in the old way of doing things was the threshold between E and F. So,  
8 1600, below that you're at level of service E, above it you're at level of service F.

9  
10 Councilmember Knapp,  
11 Right.

12  
13 Dan Hardy,  
14 I'm actually trying to draw memory from the discussion two years ago where we did, I  
15 think the, when this discussion of a 25 CLV change came up. You know, 25 CLV  
16 change is more meaningful if it is from 1800 to 1825 than it is from 1400 to 1425  
17 because you're getting the congestion areas.

18  
19 Councilmember Knapp,  
20 Right. But for an example --.

21  
22 Dan Hardy,  
23 I think the 25 CLV was you know, maybe three or four seconds experienced for every  
24 motorist going through that intersection.

25  
26 Councilmember Knapp,  
27 Which means, so I don't know what signals are timed at, but if I'm out here on 355 and  
28 28 which is three lanes in each direction, how long do I sit, how long do I cycle, does the  
29 light change if I'm, pick a timeframe, 8:30 in the morning, it takes me how long to get  
30 through that light at 1600.

31  
32 Dan Hardy,  
33 Generally at 1600 you should not expect to wait more than one red light if you get a red  
34 light. And sometimes you'll get a green light. At 1800 you start to expect to maybe not  
35 get through the first green light and wait for a second light.

36  
37 Councilmember Knapp,  
38 Okay. So 1800 probably through one and maybe have to wait for two. You say  
39 something, Karl?

40  
41 Karl Moritz,  
42 Only that we did in the book on page 170, there is sort of a review of Local Area  
43 Transportation Review and what does capacity mean. In this instance, what is a  
44 theoretical capacity of a signal, et cetera. And -- summarized it for you but I thought if





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1 there was sort of more detail. This is actually from a study that we did a couple of,  
2 actually in 1999 where we went and did a top to bottom, it was one of the several top to  
3 bottom studies of Local Area Review that we had done over the years. So we included it  
4 in this report because it went back to basics.

5  
6 Councilmember Knapp,  
7 Okay. And does the variation of Critical Lane Volume, be it 1500, 1600, 1800, have  
8 some tie into number of lanes at an intersection or of that road capacity? Is it two lanes  
9 would get you?

10  
11 Dan Hardy,  
12 Not directly. Because it is all, it's not a matter of how many vehicles are going through  
13 the intersection, it's how many vehicles are essentially competing for the center point of  
14 the intersection. So you can get on a 4-lane road, twice as many vehicles through at the  
15 same CLV as you would have on a 2-lane road.

16  
17 Councilmember Knapp,  
18 Okay. And how do you create a standard associated with this? What makes 1600  
19 acceptable in some places and 1475 acceptable somewhere else? Is that the level of  
20 service or is it the road capacity? What gives you that variability from place to place?

21  
22 Dan Hardy,  
23 As President Praisner said earlier, it is the relationship of how much transit there is in an  
24 area. And with more transit we have, folks have options so we can say that we can  
25 accept more congestion because there is transit options available.

26  
27 Karl Moritz,  
28 As well as areas like Downtown Bethesda, you are expecting narrower intersections  
29 and so your ability to continue to widen intersections is quite constrained. But in more  
30 suburban areas of the County, we can achieve lower congestion levels because we do  
31 have the ability to widen intersections.

32  
33 Councilmember Knapp,  
34 So it is as much the experience as it is --.

35  
36 Karl Moritz,  
37 As well as, you know, our land use and master plan.

38  
39 Council President Praisner,  
40 Master plans.

41  
42 Councilmember Knapp,  
43 Right. So we would expect to experience less congestion in Germantown than we would  
44 in Downtown Bethesda so therefore we have a lower Critical Lane Volume in that



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1 community relative to another because that's what we would expect to experience in  
2 that community.

3  
4 Karl Moritz,  
5 Right. That's correct.

6  
7 Unidentified  
8 Right.

9  
10 Councilmember Knapp,  
11 Okay.

12  
13 Council President Praisner,  
14 And the recommendation to make the change for the Germantown Town Center relates  
15 to the availability of more bus service more frequently in that area and that's why the  
16 suggestion that the change, that it can be increased, the congestion capacity, the  
17 Critical Lane Volume threshold can be increased because we provided more transit  
18 availability.

19  
20 Glenn Orlin,  
21 Not only is it more frequent bus service, it's express bus service.

22  
23 Council President Praisner,  
24 Right.

25  
26 Councilmember Knapp,  
27 Okay. That's good for background. I appreciate that. And then the other, I was intrigued  
28 by this just in reading through the scope of the LATR study, I recall, I think it was four  
29 years ago where we actually said use as many intersections as you need for your LATR  
30 analysis and then I heard at some point over the course of the last couple of years, that  
31 you still only went out a couple intersections from wherever the development had been  
32 proposed and I was always kind of befuddled by that, because it would seem to me that  
33 you'd want to go out as far as you could to be able to mitigate the effect. And so I'm just  
34 curious as to, have you been using more intersections and this just codifies it or did we  
35 really need to do this to allow you to be able to use more intersections for that analysis.

36  
37 Council President Praisner,  
38 Well, they do go out more. This is supposed to be the minimum but I think.

39  
40 Glenn Orlin,  
41 -- the change. If you look on page 13.

42  
43 Council President Praisner,  
44 Right. Where the difference is?



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1  
2 Glenn Orlin,  
3 Yeah.

4  
5 Council President Praisner,  
6 Yeah.

7  
8 Glenn Orlin,  
9 The three tables there. The first table was the guidance and the Growth Policy prior to  
10 2003 where you see on the right-hand side look at the column title, signalized  
11 intersections in each direction. So if it was, depending on the range of trips generated  
12 peak hour, that was the number of intersections. The Board had the, the Board could  
13 periodically do more than that if they wish, but that was basically what it was. What Mr.  
14 Knapp is remembering is that --.

15  
16 Councilmember Knapp,  
17 Floors not ceilings.

18  
19 Glenn Orlin,  
20 That's right.

21  
22 Councilmember Knapp,  
23 That piece.

24  
25 Glenn Orlin,  
26 Four years ago the middle table, you see now it says minimum signalized intersections,  
27 so not only to increase the number of intersections that you look at for the larger  
28 developments, we're saying that's a floor now. We just did that four years ago. That's  
29 probably what you're remembering.

30  
31 Councilmember Knapp,  
32 So we're just changing the floor?

33  
34 Glenn Orlin,  
35 And now the bottom table.

36  
37 Council President Praisner,  
38 We're reinforcing that it is a floor.

39  
40 Glenn Orlin,  
41 Is what the majority of the Committee is recommending, basically keeping the floor  
42 concept but adding two more rings if you will for the largest developments in terms of  
43 what the minimum floor is.



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1 Councilmember Knapp,  
2 But you could have done that already.

3  
4 Royce Hanson,  
5 Yes.

6  
7 Council President Praisner,  
8 Yeah. I equate this as much to the Georgetown branch discussion as anything else to  
9 some extent. It is the technical confidence level or content level and also the concern  
10 that reinforcing that this as a minimum is the debate that we often hear from the  
11 community that they should look further out. That's where the debate has been or a  
12 developer saying to a community this is all I have to do. And that is the issue then I think  
13 should be taken from a standpoint of what you require to strengthen the requirement for  
14 larger developments but also to reinforce the view that this is a minimum, not this is all I  
15 have to do kind of mind-set.

16  
17 Councilmember Knapp,  
18 Right. That's all I'm just again trying to figure out which problem we are trying to fix and I  
19 didn't. [multiple speakers]. Okay.

20  
21 Glenn Orlin,  
22 There's two ways that this is important. One is the obvious one in terms of the larger  
23 development. You're looking farther out in terms of the number of intersection. But the  
24 other is you're increasing the scope of the entire study, not just in terms of the study of  
25 which intersections but where the background traffic is coming from. What happens now  
26 is you're looking at the, you do a traffic count to find out what the existing traffic is. And  
27 you are also then projecting how much development, how much traffic is going to come  
28 from development that's in the pipeline, development that's already approved but not  
29 yet built, but within the scope of the number of rings. If you increase the number of  
30 rings, you're not only looking at more intersections, you're also looking at more pipeline  
31 development generating traffic which affects all of the intersections within the seven  
32 rings if it's the largest development.

33  
34 Councilmember Knapp,  
35 Right, but that was the reason we said before that was a floor not a ceiling. I mean,  
36 that's the exact same discussion we had.

37  
38 Glenn Orlin,  
39 Right. Right. Because this does.

40  
41 Councilmember Knapp,  
42 All right. Just checking.

43  
44 Council President Praisner,



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1 Okay. Councilmember Elrich.

2  
3 Councilmember Elrich,

4 A couple of points to make here. And this is where I really wish I had a map to play with  
5 to show people to make this graphic. Because this is about what's actually going to  
6 happen on the ground. And Glenn's last point I think is really critical. This morning we  
7 talked a little bit about the staging ceilings for schools and what are the motivations for  
8 using the, looking at schools who are a little above capacity is saying we want to know  
9 what's really out there. And the problem with Local Area Review right now the way it is  
10 being tested is, we're not counting what we know is really going to be out there. If it is  
11 beyond five intersections or seven intersections, we don't know it is there. Even though  
12 we know it is there. And if it is a little project, if somebody is putting like a little three-  
13 story office building on the corner of something and you could argue that the impact is  
14 absolutely minimal, but when you're talking about large projects, 500,000 square feet  
15 generating you know 2,000 jobs, you're talking about substantial impacts on  
16 intersections and they are cumulative. I mean you could have a project that's you know  
17 seven blocks away from something you're doing and a project that's you know 12 blocks  
18 away and we know they are going to be large, we know that if it is being built in Silver  
19 Spring or Bethesda or Rockville that you're going to get into and out of the project either  
20 coming on Rockville Pike or Georgia Avenue or you're going to come across on Old  
21 Georgetown Road in Bethesda, you're going to come across -- Mill in Rockville, you're  
22 going to come across on Colesville and 410 in Silver Spring. Those are the only points  
23 that major traffic is really going to enter and exit from the CBDs. And so if we pretend  
24 like we don't know what's out there, then we're understating what the impact of a project  
25 we're looking to approve in the amount of mitigation that we're talking about. We're  
26 understating what needs to be mitigated. And it gets to you know, I've said this before to  
27 the smaller group, we've had Councilmembers say that if our planning is so good, how  
28 did we get in this mess? Well if you consistently don't count things that you know about  
29 and then those projects get built, they do get added to the intersections. And you have a  
30 relative level of certainty because we've all seen the maps you guys do for  
31 developments about how a project is going to disperse. In Silver Spring, if I built a  
32 project, hypothetical project at Spring Street and Georgia Avenue, say a large project  
33 there with offices and housing, and I build another hypothetical project at East West  
34 Highway, those things are more than seven intersections away. Both those projects are  
35 going to dump most of the traffic on Georgia, Colesville and 410. But technically you  
36 wouldn't have to count them. I have a hard time making planning decisions based on  
37 not knowing what we know and I think it is critical to the extent that the planning that you  
38 have the access to even rough numbers, rough numbers are better than no numbers. A  
39 rough number of impact is better than saying there's zero impact. And that's why I put in  
40 my proposal to use one, three and seven and -- areas as a way of looking at the impact  
41 so we capture as much of what's coming in, not as little of what's coming in. And I wish  
42 George was here because this gets to George's mitigation point. It is another flaw in the  
43 system. And there's a memo from Dan where I think you wrote to Jim Humphrey and



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1 you said we don't track, don't do any tracking of our projects, I mean, I should quote  
2 you, it's better that way.

3  
4 Dan Hardy,  
5 I think it had to do with the trip, different types of trip mitigation.

6  
7 Councilmember Elrich,  
8 Different types of trip mitigation.

9  
10 Council President Praisner,  
11 Which speaks to the point that we made earlier about wanting to review this issue in  
12 some ways.

13  
14 Councilmember Elrich,  
15 So you say however there is no follow-up on that individual project regarding its impact  
16 on traffic volumes. We recognize there is not a direct correlation for the LATR non-auto  
17 amenities and the trip reduction values in table 3 of the LATR guidelines. If there is no  
18 correlation, we shouldn't be counting them because that contributes again to this why  
19 are we surprised what happens at these intersections? If you approve several projects  
20 that you allow mitigation, you say, yeah, you go through a traffic study, you tell the  
21 community this intersection is going to work. It is a combination of turning lanes and  
22 timing and by the way they mitigated 100 trips. But then you find out that none of those  
23 100 trips are actually mitigated. What you've done is got what I think – which should be  
24 properly classified as design elements of sound design and sustainability. We've put  
25 them as trip mitigation things rather than how do you design the city properly in the first  
26 place. So then the project gets built, and then the intersection is overloaded. Well, it's  
27 overloaded because there are a bunch of trips you said were mitigated and never going  
28 to go through there and they actually wind up going through there. So my pitch in all this  
29 is A: that we insist that mitigation be tied to things they actually know are going to work.  
30 If it doesn't mitigate it, we shouldn't count it. And I would implore my colleagues to come  
31 up with a stringent test for the number of intersections we are going to count so we can  
32 realistically assess and tell people what the place is going to function. As I said, this isn't  
33 -- anything in the moratorium. All it's going to require is more mitigation and more  
34 mitigation to make things work better I think is a good thing. So that's a short pitch on  
35 this.

36  
37 Council President Praisner,  
38 Okay. Thank you. Councilmember Floreen and then we will move on to policy area.

39  
40 Councilmember Floreen,  
41 Thank you. Well I come at this a little differently than Marc. I guess what I think a point  
42 to be made is the one that was said at the beginning. It needs to be reemphasized I  
43 think that the LATR chart that we have here on page 11 reflects a standard, I think the  
44 standard of adequacy for these areas, maybe we all agree or maybe we don't but at



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1 least that's the test that is in place currently. And it goes through every policy area and  
2 as the Council President indicated and everyone agrees, these are the levels of  
3 congestion that are anticipated and planned for in these environments because of the  
4 access to either roadway capacity or transit capacity. I think that's a really important  
5 point as this conversation continues. So we have a list and you can argue about the list,  
6 perhaps whether those are the right numbers. The fact is four years ago we reduced the  
7 numbers by ind large by 50 trips. And the concern I have about reducing them further is  
8 if you are going to go to an environment in which you are going to focus totally on  
9 capacity improvements which are measurable and long term, you're going to come  
10 straight up against all the work we are doing on the road code which is designed to  
11 minimize the addition of impervious surface. It is designed to make it easier for  
12 pedestrians to get through intersections. It is designed to make these roadways more  
13 community sensitive and that is the challenge of this effort. But I do think that's what the  
14 Planning Board said. And I'll point it out to my colleagues. I think this makes that test  
15 even harder to achieve. We spent a lot of time and the County Executive staff is  
16 hopefully putting together their group on this subject to identify some of these, the  
17 means by which road and community design can be achieved. But it is not going to be  
18 achieved by adding a whole lot of additional lanes with an attention on getting a large  
19 amount of capacity through these intersections. All of us can point out to a favorite  
20 intersection in this County which has devastated a community and eliminated its sense  
21 of place. I'll point to Olney-, 108 and Georgia Avenue, gets a lot of cars through and in  
22 fact community members have said to me can't you add more lanes there but we have  
23 made that particular location inaccessible and hurrah for us. We satisfied a math  
24 standard but we devastated a community standard I think. And so I think it is a very  
25 troubling proposal to reduce these numbers down lower, particularly with the emphasis  
26 on techniques that are not things like sidewalks and pedestrian amenities and things  
27 like that that do add to community character, but may not make the math work. I think  
28 it's, I am very concerned about that. What I would also like though is do we have a map  
29 that shows where the problem intersections are?  
30

31 Council President Praisner,  
32 How do you define problem intersections?  
33

34 Councilmember Floreen,  
35 Well the ones that don't meet these standards now.  
36

37 Karl Moritz,  
38 I believe that we did include one in the book.  
39

40 Councilmember Floreen,  
41 We have that.  
42

43 Royce Hanson,



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1 While Karl is looking for that, just to follow on what you said, I think it is almost as much  
2 a mistake to denigrate pedestrian improvements as it is to engage in hyperbole about  
3 how wonderful they are.

4  
5 Councilmember Knapp,  
6 A pragmatist.

7  
8 Royce Hanson,  
9 They can make a difference particularly over time I think. The reason we recommend  
10 leaving, except for Germantown Town Center, the Critical Lane Volumes where they are  
11 is because reducing them further does tend to emphasize roadway improvements over  
12 transit improvements and to the extent that it does that, it will produce more pavement.  
13 Now, reducing them I think on the other hand will probably result in intersection  
14 improvements that will facilitate traffic flow.

15  
16 Council President Praisner,  
17 That traffic flow also assists buses in getting through those intersections not just --.

18  
19 Royce Hanson,  
20 There may be other ways of doing that like queue jumping.

21  
22 Council President Praisner,  
23 Well, but then you need space for the queue jump to occur.

24  
25 Royce Hanson,  
26 Yes.

27  
28 Council President Praisner,  
29 And that's --.

30  
31 Councilmember Floreen,  
32 And you also need space for the pedestrians --.

33  
34 Royce Hanson,  
35 And you need pedestrian space as well. It is a trade-off.

36  
37 Councilmember Floreen,  
38 It is all a series of trade-offs and I think that's the point to be remembered here  
39 particularly as we get into what is indeed a balancing act and how we get us to a point  
40 where we don't focus so much on rules that favor cars, that we do not give the proper  
41 attention to the other users and that's also bicyclists and all the other players that we  
42 hope will be favored in the road code improvements and not just left to the side.  
43 Because these are the standards that drive the decision-making for projects. It is the





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1 LATR standards that create pavement, lanes and really make it very difficult for  
2 anything other than cars to proceed.

3  
4 Council President Praisner,

5 Well, I'm sorry, the reality is that most of the County is not going to be in mass transit,  
6 metro or those kinds of vehicles, those kinds of capacities and we haven't built them yet.  
7 Most folks for the next two years that this Growth Policy is going to be in place will want  
8 to get them out of cars, have to get on buses. And the biggest complaint I get from folks  
9 is that the bus is backed up just like the car and why should I take a bus when I can be  
10 in a car and have more control and, yes, I have to get to that bus and that's more  
11 sidewalks and shelters from that perspective. And the pedestrian issue is having a place  
12 to walk. But the intersections that we're talking about where you want to have more  
13 pedestrians crossing and walking are, in my view, are most extremely related to your  
14 Metro Station and your high congestion downtown areas where the issue is already a  
15 high congestion standard. So when I talk to people in the Route 29 area, what they  
16 complain about is being, not being able to get to a bus and not reliability about the bus  
17 and the fact that the bus takes as long as the car, even longer when you put together  
18 everything they have to do to use the bus.

19  
20 Councilmember Floreen,

21 I asked, did you find my map?

22  
23 Karl Moritz,

24 It turns out it wasn't in the book. It was in a presentation we gave earlier but we can --.

25  
26 Council President Praisner,

27 Okay, if you get it to people that would be great.

28  
29 Councilmember Floreen,

30 Yeah, that'd be great, thanks.

31  
32 Council President Praisner,

33 Thank you. Last comment on this Councilmember Elrich.

34  
35 Councilmember Elrich,

36 When you're doing the map, do you have an update to this chart which I think dates  
37 from 1999?

38  
39 Karl Moritz,

40 Yeah, the map is from the most recent highway mobility report which is last year.

41  
42 Councilmember Elrich,

43 And so you, but you can also provide some updated numbers on this?

44



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1 Karl Moritz,  
2 It would be, yeah, the updated data, yeah.

3  
4 Councilmember Elrich,  
5 In my comments Royce about the pedestrian premise isn't to denigrate them. I think  
6 they're good design. So, let's make them part of our design. Let's not confuse them for  
7 transit improvement.

8  
9 Council President Praisner,  
10 Okay, let's move to Policy Area Review because I expected this would be where most  
11 of our discussion and conversation would be. The discussion within the Committee was  
12 first of all, whether there should be a Policy Area Review. And I think based on the  
13 conversation the question was more what than if and Councilmember Floreen, I'm not  
14 sure whether, I guess it would be fair to characterize that Councilmember Floreen  
15 reserves judgment on that issue because there isn't a policy area review that she's  
16 comfortable with at this point. Is that fair?

17  
18 Councilmember Floreen,  
19 Well, that is what I've said certainly. I just have to say based on the conversation we've  
20 just had it does, well, we are now talking about layering on another set of standards, on  
21 an existing set for LATR so I guess I'm less and less enthusiastic about the likelihood of  
22 there being one. But please proceed.

23  
24 Council President Praisner,  
25 Well I intend to. [laughter]. So the majority of the Committee, with some lengthy debate  
26 over time, and we've lost most of the Council, that's unfortunate but I'm going to go  
27 forward. I know Councilmember Leventhal does or did have to leave. It looks like he  
28 may be back just briefly because he has a class. But the majority of the Committee with  
29 some concern about the PAMR study in front of us and with some tightening of, within  
30 the discussion of it has, is supporting a PAMR study with some additional work that  
31 needs to be done. And has also made some modifications to the acceptable threshold  
32 levels of the chart as it relates to transit mobility and arterial mobility. And I think we've  
33 had some conversation about what PAMR is at the Council level, but if folks would like,  
34 and I think it looks like staff has the capacity to do so, once I've completed my  
35 comments, if staff, if Councilmembers are interested in a more comprehensive  
36 discussion of the PAMR process, what I was basically going to refer to is the color chart  
37 that you've been given which makes three modifications. Number one modification is  
38 that it's consistent with the four years rather than the five years or a six year that has in  
39 the past been used for the study process. In other words, you're projecting out four  
40 years in the chart in front of you. Number two, when we had our initial conversation with  
41 the Planning Board within the Committee and staff about how one looks at the, how one  
42 graphs and how one considers what are acceptable levels of mobility in the relationship  
43 between arterial mobility, congestion, and transit mobility speed, the Committee majority  
44 was let's say a little uncomfortable with bright line as it had been drawn originally. And



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1 has made some modifications which do impact or affect more policy areas as to the  
2 requirements for mitigation. The final piece in which the Committee made modifications,  
3 which is again related to a policy issues and also implications of requirements is to  
4 increase the mitigation requirements for those areas that fall below the newly designed  
5 line that relates to arterial mobility and transit mobility. The relationship of those two.  
6 Using and accepting staff's recommendation to double the requirement for mitigation  
7 associated with those areas. So in the chart in front of you, you have the green area  
8 where the relationship is acceptable and you see the master plans, or the planning  
9 areas and where they fall, you see the area where full mitigation is required, meaning  
10 100% mitigation and most of those fall between the 55 and 65 percent in the pink area  
11 and between 55 and 40 percent in the arterial mobility area. And then the yellow pieces  
12 which are part of the stair-step planning areas where partial mitigation is required, again  
13 doubling the requirement that the Planning Board had recommended with, in other  
14 words accepting staff's recommendation. Two other comments I would make. There is, I  
15 believe, on the part of the Committee majority as well as Councilmember Floreen, a  
16 desire to have additional work done within a aggressive time period to look at a variety  
17 of issues, including reviewing the adequacy definition and the, examining further some  
18 of the other requirements that might be associated with the PAMR chart. Working, and I  
19 think this is consistent with the County Executive's recommendation or suggestion that  
20 additional work be done. The Executive as I understand it does not support the PAMR,  
21 but he does support the additional work that needs to be done, which the Committee  
22 also recommends. And that that come back to us before the two year time period. In  
23 other words, this is a new study process. There is some concern that has been  
24 expressed about how it would work from an implementation perspective and some  
25 concern about the merging of the way the individual areas and the individual mobility  
26 judgments were made and when and how activity or congestion was calculated that has  
27 suggested from the standpoint of the majority of the Committee that we would like  
28 further review that wasn't possible at this point in the process. But I think the majority of  
29 the Committee was persuaded by the Chairman that the tests that we're talking about,  
30 even with the flaws that we, whether you call them flaws or issues, probably issues is a  
31 better word, the issues that are outstanding, still outstanding or raise questions, that  
32 there is still a value in implementing this and seeing how it works, as we go forward with  
33 the ability to make modifications as we go forward and to have further refinements as  
34 part of the next year's work with the goal of having a mid Growth Policy discussion on  
35 further work associated with this issue. To some extent consistent with the discussion  
36 about guidelines, sustainability, quality of life that all of these things could be a further  
37 review of the PAMR process since this is a new process that folks would like to have  
38 more review from an how is it actually working perspective rather than the theoretical  
39 perspective. I want to thank Councilmember Elrich for all the work that he has done to  
40 gather more information and to work through these issues. And also our staff for some  
41 of the suggestions that they have made relative to alternatives. There was also  
42 significant discussion of parking issues and how parking relates to these issues, which  
43 hopefully, obviously is not in front of us at this point. But the implications of parking  
44 would obviously have some impacts depending upon the areas, let alone the whole



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1 County as we talk about it. Glenn just left the room, which makes it very hard for me  
2 turn to him to see. I'm not a good singer or hummer. So I'll turn it over to the Chairman  
3 to see if he has any comments he wants to make.  
4

5 Royce Hanson,  
6 Yes, I do. First of all, I think before commenting on the modifications made by the  
7 Committee yesterday, I'd like to have an opportunity for staff and Board to review those  
8 and we'll have those for you next week.  
9

10 Council President Praisner,  
11 If you could get them to us, Royce, this week sometime rather than for Tuesday  
12 because I'd want to on Tuesday.  
13

14 Royce Hanson,  
15 Okay.  
16

17 Council President Praisner,  
18 Focus on action more than.  
19

20 Royce Hanson,  
21 I think we've got time on our agenda Thursday to consider.  
22

23 Council President Praisner,  
24 That would be helpful.  
25

26 Royce Hanson,  
27 Because we had couple of items drop off the agenda.  
28

29 Council President Praisner,  
30 Okay. Great. Thank you, that would be helpful.  
31

32 Royce Hanson,  
33 It might be helpful for those members who have not devoted their full lives over the last  
34 few months to the explication of PAMR to just review.  
35

36 Council President Praisner,  
37 Yeah, I think that would be helpful.  
38

39 Royce Hanson,  
40 How we set it up and what it does because it is a change in approach from the prior  
41 Policy Area Transportation Review. And it reflects the forecasted arterial and transit  
42 transportation capacity of each planning area. That's the policy areas. That forecast  
43 includes all of the existing development and all development that has been approved  
44 but not yet built. Because some parts of the approved development in the pipeline will



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1 not actually be built. We don't know which part, but some part won't. The model is  
2 conservative. It slightly overestimates the trip generation from existing and approved  
3 development. Don't know how much, but some. Where PAMR differs from prior models  
4 that you have looked at is in its inclusion of transit as a component of the area's  
5 transportation system. And therefore we think it's more transparent and understandable  
6 than some prior systems. First, it includes transit. Secondly, it's based on trips. Which is  
7 the common experience that every traveler has. Travelers do not experience levels of  
8 service. In a way in which he says, aha, I'm in travel of, I'm in level of service B. And just  
9 a way up the road, I was in a level of service D. And I'm dreading it because I'm going to  
10 get to E. You have a trip. And rather than measuring the level of service then as an  
11 abstraction, PAMR measures the average time it takes a resident of a policy area who  
12 drives on the arterial roads or rides public transportation from home to destination  
13 during the peak travel hours. It uses standards of service that were developed by the  
14 Transportation Research Board and combines them in a table and in a graphic  
15 representation that shows where each of these policy areas falls with respect to the  
16 relative levels of service for arterial and transit trips measured by the average trip speed  
17 or time. Basically the arterial measure is the same measure that you're familiar, volume  
18 to capacity that has been traditionally used. The transit level is measured as a  
19 percentage of the time that it would take to travel by car. So it is a relative relationship.  
20 Now by putting this on the graph, it identifies the policy areas with acceptable or, if you  
21 wish, adequate transportation facilities. That is that the peak hour travel times meet  
22 acceptable national standards. They may not meet your standards, but they meet these  
23 standards. It identifies areas of inadequate facilities, and in our original graphic that was  
24 Germantown East and Gaithersburg. And in the modification that the Board made in  
25 response to comments that were earlier made the areas that were in our second  
26 submission, a little different than the graphic you see on the wall now, it identified those  
27 areas with facilities that are approaching inadequacy or as defined operationally in  
28 unacceptable travel times. Now it specifies then also the level of trip mitigation that has  
29 to be provided by a development if it's in the unacceptable or approaching unacceptable  
30 areas in order to proceed prior to the provision of facilities through the CIP process. So  
31 it recognizes that established policy of the County in permitting slower speeds and  
32 therefore greater travel times for arterial trips, by residents of a policy area as transit  
33 trips in that policy area are more time competitive with driving. We think this is  
34 consistent with adopted master plans and other policies that encourage transit ridership  
35 and it implicitly accepts higher levels of roadway congestion for these areas that have  
36 better relative travel service. And because it requires mitigation in areas with inadequate  
37 or near inadequate facilities, commensurate with the development's impact on the policy  
38 area's transportation system, PAMR requires more than the old PATR test. In these  
39 areas, development cannot proceed without mitigation that ensures that the facilities are  
40 provided concurrently with the completion of the development project. The developer  
41 seeking to build in these areas may always wait for County or state governments to  
42 build the infrastructure necessary to move the area into the adequate or acceptable  
43 range. And we have recommended to you that in approaching the mitigation issue that  
44 the priority be placed on transit mitigations. So in summary, we've tried to achieve a



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1 balance between master plan land uses and the supporting transportation infrastructure.  
2 For a subdivision to be approved, it must be substantially consistent with the master  
3 plan with respect to land uses, transportation, and other facilities and staging if there's a  
4 staging element in the plan. And we think that it will not guarantee there will be no  
5 congestion on roads. There will be some areas in which congestion will increase. That's  
6 permissible if transit service increases. It does not instantly materialize all the transit  
7 services that are needed. And it's true that some arterial travelers will have greater  
8 delays in those areas where a high level of transit service is available or where  
9 decisions have been made to emphasize traffic improvements in preference to roadway  
10 improvements and traffic flow. So as I indicated earlier, we're not claiming this is a  
11 perfect approach. We think it's a better approach than the ones that we've used in the  
12 past. And we are more than ready as Council President suggested to engage in further  
13 analysis and try to find ways to make this a better system, but we believe that we will all  
14 be better off. It will be helpful to us in the master planning process as well as in the  
15 subdivision process to have a workable Policy Area Review system in place.

16  
17 Council President Praisner,

18 Thank you very much. I have only one light. Councilmember Berliner.

19  
20 Councilmember Berliner,

21 I'd be happy to defer to colleagues on the Committee if any of my colleagues care to--.

22  
23 Council President Praisner,

24 Well, Councilmember Floreen, do you want to go first as a member of the Committee?  
25 Go ahead. Go ahead.

26  
27 Councilmember Floreen,

28 Okay. I'm happy to have Roger go ahead because he hasn't had the -- .

29  
30 Council President Praisner,

31 That's okay. Well, why don't we just, we'll do the Committee, we usually go Committee  
32 comments and then Councilmembers so that's fine and Councilmember Berliner's been  
33 very gracious so we'll go to Councilmember Floreen, Councilmember Elrich and then  
34 Councilmember Berliner.

35  
36 Councilmember Floreen,

37 Always a delight Mr. Berliner. Thank you. This had another complicated issue for us and  
38 everyone said that. Could you talk a little bit about, and this is not something we talked  
39 about in Committee, the relationship between the LATR and this?

40  
41 Royce Hanson,

42 Yes.

43  
44 Councilmember Floreen,



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1 Because let me just say, to set it up, we just had a conversation that everyone  
2 concurred in with respect to the levels of congestion that were basically agreed to  
3 throughout the policy areas in the chart on page 11. And I don't think we did talk much  
4 in Committee about how this related to this other test. Could you talk about the  
5 relationship?

6  
7 Royce Hanson,  
8 Yes.

9  
10 Councilmember Floreen,  
11 Why the choice of different tests, the benefit and why the product might be different or  
12 consistent?

13  
14 Royce Hanson,  
15 Okay. A couple of things. Everybody has to undergo the LATR test. You can be in the  
16 green area, in which the policy area facilities on average are adequate. But there may  
17 be intersections that need help either in that policy area or somewhere downstream in  
18 any direction from the place in which you are building. So everybody has to go through  
19 Local Area Transportation Review. Policy Area Review was initially set up as a simple  
20 pass fail. Now it's pass, fail and being on probation. And in that the areas that are close  
21 to the failure line also have to undertake some level of mitigation depending on how  
22 close to that failure line they may be. And the Board and the Committee have  
23 recommended different levels of that mitigation. Full mitigation for those failing, either  
24 now or in future times, and the idea is this would be redone on an annual basis so that  
25 we keep up to date with the way things are. The other advantage of it, I think, is it gives  
26 some degree of certainty to everybody as to where they stand. If you're a developer,  
27 you don't have to spend a lot of money doing a transportation study to know whether or  
28 not you're subject to PMR. You are subject if you are developing in an area that's left of  
29 the steps or you've got to mitigate to some degree and we can tell you how much based  
30 on where you are in the yellow or probation area of --.

31  
32 Councilmember Floreen,  
33 Well, there's no question. But the point, my question really is why are we applying  
34 different standards for the same result.

35  
36 Karl Moritz,  
37 One thing I wanted to actually jump in on that is related to your question that we  
38 touched on slightly in Committee, but I don't think you got the right answer actually was  
39 --.

40  
41 Councilmember Floreen,  
42 So often the case.

43  
44 Council President Praisner,



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1 Sometimes we don't ask the right questions.

2  
3 Councilmember Floreen,  
4 Often. More often.

5  
6 Karl Moritz,

7 I think maybe you did, but the answer was, the difference between Local Area Review  
8 and Policy Area Review, why have different tests and one of the benefits of Policy Area  
9 Transportation Review is that you capture what we used call the upstream downstream  
10 effect. So that traffic generated in Clarksburg, the impact would be measured on, it's  
11 effect on Germantown and all the way down the system. Local Area Review does not do  
12 that. Policy Area Review, including PAMR does do that. And so that is one of the few  
13 ways of actually capturing that effect is to conduct a policy area kind of review.

14  
15 Dan Hardy,

16 And I would just add too, that as we are switching from measuring capacity to  
17 measuring mobility, that the LATR standards are all based on what's the capacity of an  
18 intersection? With PAMR, we're taking that first step towards sustainability to  
19 considering mobility and the experience of the traveler rather than just the number of  
20 vehicles that can theoretically get through an intersection. So, we think that the type of  
21 adequacy, of saying we are going to have stricter standards and, accept less  
22 congestion if there is less transit service is very consistent with the LATR but we do  
23 have a mobility based set of standards from TRB as opposed to a intersection -- set of  
24 standards in LATR.

25  
26 Councilmember Floreen,

27 And what are the mitigation mechanisms likely to be?

28  
29 Dan Hardy,

30 Well we actually have a couple of examples that we could show you on the screen. This  
31 would be a good time perhaps to do that. And maybe turn the lights down a little bit  
32 because these two slides that I'll talk to are something that was presented to the  
33 Committee, but is not in the Council's packet. If you go to the next slide, actually keep  
34 going, one more slide. Right there. The first thing that we looked at was, let's look at  
35 some hypothetical office developments in north Bethesda but outside of a Metro Station  
36 policy area. And we have three red bars in the chart which represent three different  
37 types of office buildings. 50,000 square feet all the way up to half a million square feet.  
38 When the Planning Board proposed the end of September version that included partial  
39 mitigation. The criteria in north Bethesda was that for PAMR, you would need to  
40 mitigate 40% of your peak hour trips and those red bars show the amount of trips that  
41 would have to be mitigated. As we mentioned, there is four ways that you can mitigate  
42 trips. And on the second bullet on the slide is the often discussed as Royce said, non-  
43 auto amenities which there is a cap as to the extent to which that can be applied in  
44 LATR and we have proposed that same cap in PAMR. So that up to 90 trips could be





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1 mitigated by non-auto amenities such as sidewalks. Then there is three other categories  
2 that the rest of the trips or all of the trips can be mitigated by, trip reduction programs,  
3 providing transit capacity or providing roadway link capacity.  
4

5 Councilmember Floreen,

6 So, it's conceivable that satisfying the pay more requirements would satisfy LATR?  
7

8 Dan Hardy,

9 Only those the last bullet says that in non-auto amenities and trip reduction programs  
10 you could satisfy both tests simultaneously. And we ran through an example. Say that  
11 right side bar, there is about 340 peak hour trips that a half million square foot  
12 application for office would have to mitigate. If that applicant chose to mitigate by using  
13 all four types of mitigation equally, or I should better say, if the Planning Board thought  
14 that was a good idea and approved that type of mitigation program, the trip reduction  
15 they'd have to take about 90 trips off the road and that's what Ms. Praisner is concerned  
16 about is that we would to, they'd have to enter a formal agreement. It would be binding  
17 right now between twelve and fifteen years with monitoring to make sure that those trips  
18 are coming off the road. The discussion of extending that period is underway. That's  
19 one-quarter of the trips. With that blue line, they could choose to get up to about 90  
20 trips. That would be the cap, to do a quarter of their trips through non-auto amenities.  
21 And for those 90 trips, it would take about 2 miles of offsite sidewalk to mitigate 90 trips.  
22 We looked at the County's Green Tree Road sidewalk project and said that's probably  
23 about \$6 million of mitigation to get two miles of sidewalk built. If they were to provide  
24 roadway capacity for, excuse me, transit capacity for a quarter of those trips, I need my  
25 cheat sheet, we said that would be basically, I think, each bus would be 30 trips so  
26 they'd have to buy 3 buses and run them for 12 years. And we figured that would be a  
27 net present value somewhere in the range of \$14 million, to buy the buses and run them  
28 for 12 years. And then lastly, if they were to reduce a quarter of the trips by building  
29 roadway capacity, the County's already planning to build Neville Street Extended, --  
30 policy area, if you look at the cost the County was planning to build Neville Street  
31 Extended, getting a quarter of the trips down on this application would probably cost  
32 about \$12 million for contribution to Neville Street. So, four different types of mitigation  
33 they could do. Three of which involve capital or other financial expenditures that would  
34 total about \$30 million if they tried to apportion them equally. The fourth is their  
35 operating expense, how much can they do programs that will actually get trips off the  
36 road?  
37

38 Councilmember Floreen,

39 So what would be your estimated cost of satisfying this?  
40

41 Dan Hardy,

42 Well, again, from the capital, in that--.  
43

44 Councilmember Floreen,



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1 -- understanding it's just a ball park.

2  
3 Dan Hardy,  
4 Yeah, about \$30 million.

5  
6 Councilmember Floreen,  
7 \$30 million.

8  
9 Council President Praisner,  
10 That's by County cost as opposed to private sector cost.

11  
12 Dan Hardy,  
13 That's true. In comparison, is that the Transportation Impact Tax for a half million  
14 square feet of office would be about \$6 million.

15  
16 Councilmember Floreen,  
17 No, but my question was for the PAMR obligation. The private obligation, what would  
18 that likely be?

19  
20 Dan Hardy,  
21 It would be about, I mean \$30 million.

22  
23 Councilmember Floreen,  
24 About \$30 million. So what, how likely is that going to, is it that that would ever happen?

25  
26 Dan Hardy,  
27 Depends upon how anxious the applicant is to move forward in the market.

28  
29 Unidentified  
30 Right.

31  
32 Councilmember Floreen,  
33 It would be helpful to have some sense of the magnitude of the different proposals, the  
34 cost of the different measures here. Just so we know what this means.

35  
36 Dan Hardy,  
37 We have one other example on the next slide. We went back and looked at comparing  
38 PAMR to the old Policy Area Transportation Review.

39  
40 Council President Praisner,  
41 That's what I was going to ask.

42  
43 Dan Hardy,



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1 And looked at the Milestone Marriott where again, we talk about pass fail tests, well,  
2 neither the old test or the new test was totally pass fail because if you are creative you  
3 could come up with a way to pass the test by providing mitigation essentially. And in the  
4 Milestone Marriott there were four developments that came in together. Among them,  
5 they generated about 12,000 peak hour trips, you can see the size of the developments  
6 there. They had to do, in the middle part of this slide, a series of Policy Area  
7 Transportation Review which was building or widening a large chunk, -- chunk of the  
8 roadways needed in the Germantown East policy area and they had to do some Local  
9 Area Transportation Review improvements as well. We did feel that it was likely that  
10 there would be a number of intersections that would have failed LATR if they didn't have  
11 Policy Area Transportation Review at the very bottom of the chart. The upshot of all this  
12 though was that for those five bullets in the middle of the slide, they were able to  
13 mitigate the impact of 12,000 peak hour trips. We estimated that the PAMR equivalency  
14 of building those five bullets would be in the order of 35 to 3700 peak hour trips. So,  
15 using this one example, the PAMR test from building roadways at least is about three  
16 times as tough or would cost about three times as much to satisfy PAMR as it did to  
17 satisfy Policy Area Transportation Review in this case.

18  
19 Councilmember Floreen,  
20 So, well, again it would be helpful to understand. We haven't talked about what this is  
21 likely to mean in terms of fiscal assignment of obligation here. So it would be helpful, so  
22 you're suggesting that what, a 500,000 square foot building or was it the million that  
23 would require \$30 million of traffic?

24  
25 Dan Hardy,  
26 Half a million in north Bethesda but outside of Metro Station policy.

27  
28 Councilmember Floreen,  
29 Half a million, a 500,000 square foot building outside of the transit station area would  
30 require a \$30 million improvement.

31  
32 Dan Hardy,  
33 Now again, what they, we are interested in emphasizing for production and to the extent  
34 that the applicant would say, I don't want to spend \$30 million, I would rather find ways  
35 to incentivize and do operating things that will do more than a quarter of the solution --  
36 for production as opposed to building or buying transit --.

37  
38 Councilmember Floreen,  
39 Right, but there would be some kind of cost to that.

40  
41 Dan Hardy,  
42 Yeah, right.

43  
44 Councilmember Floreen,



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1 Yeah.

2

3 Dan Hardy,

4 That's more, much more than operating cost. But they'd have to --.

5

6 Councilmember Floreen,

7 That would be a similarly long-term kind of obligation.

8

9 Dan Hardy,

10 Right.

11

12 Councilmember Floreen,

13 Is there a way to look at the different, that's North Bethesda, actually this, in this new  
14 chart, if you turn into the green.

15

16 Dan Hardy,

17 Right. If you go back up to the --.

18

19 Councilmember Floreen,

20 Committee a majority is proposed.

21

22 Dan Hardy,

23 Right.

24

25 Councilmember Floreen,

26 So that wouldn't not have to do that now?

27

28 Dan Hardy,

29 That's correct.

30

31 Councilmember Floreen,

32 Is that right? So then what about, let's say site two, -- White Oak area? What would they  
33 have to do to move forward?

34

35 Dan Hardy,

36 It's a bit of a challenge to do these on the fly.

37

38 Councilmember Floreen,

39 Yeah.

40

41 Dan Hardy,

42 In part because the type of, the value of all these things changes. You know, they  
43 actually, one thing is they could do, they could not do as much by building sidewalks  
44 because we said you can build, you can get more benefit by building sidewalks in the



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1 down County areas. So that 90, that blue line of 90 trips would be lower in – White Oak  
2 than it would be in north Bethesda. I believe it's 60 trips is the max you can do in north  
3 Bethesda.

4  
5 Councilmember Floreen,  
6 So a major initiative there would require, do you think it would be comparable --?

7  
8 Dan Hardy,  
9 Well, the flip side is also on the transit side, yeah, the cost would be about the same if  
10 you were to choose to buy the bus and run it for 12 years. That is about the same no  
11 matter where you do it in the County.

12  
13 Councilmember Floreen,  
14 Well this is one that would require full mitigation.

15  
16 Royce Hanson,  
17 That would require full mitigation, right. [multiple speakers]. So you are talking about  
18 more buses.

19  
20 Councilmember Floreen,  
21 Well, or -- .

22  
23 Royce Hanson,  
24 Or more roads.

25  
26 Councilmember Floreen,  
27 More roads or more intersections or something.

28  
29 Unidentified  
30 Right. The other was 40%, you're exactly right and so there would be, it would be two  
31 and a half times as many trips to come off the road or to be mitigated, you're exactly  
32 right.

33  
34 Councilmember Floreen,  
35 Well it would be all trips.

36  
37 Unidentified  
38 Yes , ma'am.

39  
40 Unidentified  
41 Right.

42  
43 Councilmember Floreen,  
44 So -- .



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1  
2 Councilmember Elrich,  
3 Mitigated doesn't mean off the road.

4  
5 Unidentified  
6 Correct. That's right. They have to put more capacity out there.

7  
8 Councilmember Floreen,  
9 Something that would overcome that burden one way or the other.

10  
11 Unidentified  
12 That's right.

13  
14 Councilmember Floreen,  
15 Some approach. So is there a way to estimate the cost of these proposals?

16  
17 Dan Hardy,  
18 I think we could as the school discussion was this morning you know, come up with a  
19 couple of you know, do more examples like they did in north Bethesda.

20  
21 Councilmember Floreen,  
22 If you could do that, that would be helpful.

23  
24 Dan Hardy,  
25 Okay.

26  
27 Councilmember Floreen,  
28 Thank you.

29  
30 Council President Praisner,  
31 Councilmember Elrich.

32  
33 Councilmember Elrich,  
34 This is my favorite discussion. Almost as much fun.

35  
36 Councilmember Floreen,  
37 --new chart.

38  
39 Councilmember Elrich,  
40 Almost as fun as LATR. I don't know where to begin. I mean, first of all, I mean, if you  
41 are allowing people to mitigate a quarter of their trips on things that are non-auto  
42 mitigation, I think that gets to the point that we spoke of earlier. And I really am  
43 disinterested in how much money people spend on things that you then say took trips



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1 off the road, when in reality they didn't take trips off there. That's my perspective. I'm not  
2 interested in things that don't have an effect.

3  
4 Royce Hanson,  
5 The amenity provision is a maximum. It's not a floor, and if you don't like it -- .

6  
7 Councilmember Elrich,  
8 Just making that clear.

9  
10 Council President Praisner,  
11 Well, the point is, if you don't like it, you don't have to.

12  
13 Royce Hanson,  
14 We don't have to do it.

15  
16 Councilmember Elrich,  
17 But I really want to talk about PAMR because this really doesn't use TRB standards. I  
18 mean, I have the manual here, I could tediously read this page by page. But I can  
19 assure you that that is not in here. And the measure of level of service which you have  
20 is not in here. If this is the TRB manual they're referring to, this is the dreaded chapter  
21 11, this is the second edition.

22  
23 Councilmember Floreen,  
24 None of us read that, Marc.

25  
26 Councilmember Elrich,  
27 Believe me, I have so many other things I want to read. [multiple speakers]. I have got a  
28 pile of – magazines I want to be reading, but I have been reading this stuff instead.

29  
30 Council President Praisner,  
31 Well – there's a light at the end of the tunnel Marc.

32  
33 Councilmember Elrich,  
34 But here's the – tunnel.

35  
36 Council President Praisner,  
37 For a little bit at least.

38  
39 Councilmember Elrich,  
40 I mean, the TRB does have levels of service for transit and they talk about wait times,  
41 headways, you have a level of service for how crowded buses are, they've got lots of  
42 things. And then they've got a level of service based on, what you might call relative  
43 mobility. And that's this chart back here which is example five. They tell you how to  
44 calculate relative mobility between auto and transit. And relative mobility is calculated by



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1 origin and destination pairs, point A to point B. How long does it take by car? How long  
2 does it take by transit? What's the difference in the time? The levels of service are up to  
3 30 minutes is considered acceptable. 16 to 30 is level C, it's considered the maximum  
4 for choice ridership. Levels D, E, and F are not acceptable for choice ridership. So to  
5 begin with, people in the field think that in order to get choice riders to use a transit  
6 system, you need to have a level of service C or better. So we've got a model that uses  
7 Ds and Es and I don't remember if you're still using Fs or not. But that's not what they  
8 say to do. And they do say to use origin of destination pairs. The other thing they say is  
9 that you've got to do it same time of day. So we are talking about relative mobility for a  
10 model that measures transit service in the morning and auto service in the afternoon.  
11 We're talking about all trips out of the policy area in the morning and I assume all trips  
12 out of a policy area in the afternoon. Which trips in the afternoon are they?

13  
14 Dan Hardy,  
15 Well again, on the relative transit mobility, we're comparing morning trips to work by  
16 transit with morning trips to work by auto from the policy area to anywhere in the region.

17  
18 Councilmember Elrich,  
19 And what are you doing with the arterial speeds?

20  
21 Dan Hardy,  
22 With the arterial, it's the P.M. peak experience on arterials for all types of trips within  
23 that policy area. And essentially, that is the same thing, Mr. Knapp laughed, but that's  
24 exactly the same way that the old Policy Area Transportation Review looked at area  
25 wide arterial level of service, VC ratios as Royce mentioned, compared to, in that case it  
26 was the morning peak transit mode share as opposed to mobility. So we are consistent  
27 in that regard with where, with the terms that were used in Policy Area Transportation  
28 Review.

29  
30 Councilmember Elrich,  
31 If you would produce the chart that compared origins and destinations where we could  
32 go out to the public and say, let's have a discussion about what are the implications of  
33 this policy, when are you saying that something's adequate and when are you saying  
34 something's not adequate where it's clear and transparent? At least I would feel  
35 comfortable with that. We could have a debate over what's the acceptable cutoff for  
36 level of service. None of which is in this discussion.

37  
38 Dan Hardy,  
39 In the example.

40  
41 Councilmember Elrich,  
42 This isn't about, if we have to make a decision or you have to make a decision  
43 ultimately to approve a project, whether the infrastructure can handle it, which is based  
44 on some notion of what we think an adequate public facility is. We've lost any notion of





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1 an adequate public facility because an adequate public facility in this chart is merely a  
2 ratio of speeds.

3  
4 Dan Hardy,

5 The example you have given from the transit capacity and quality service manual is  
6 exactly apt when you were planning a transit service and trying to figure out where to  
7 improve transit service. And we do look forward to discussions with DPWT about where  
8 and how to improve transit service because we think that's an important mitigation tool  
9 in PAMR. But this tool is also a system measure for the area as a whole.

10  
11 Councilmember Elrich,

12 I mean, this is an assessment tool to tell you what you need to do. This is not, I don't  
13 believe, truly an adequate public facility thing to tell you whether it's adequate because  
14 you take a point like north Bethesda and adequacy there is defined as ten miles and 9.9  
15 miles an hour on a road and about 6.8 miles in a bus. And in other areas, you know, you  
16 are actually failing when the vehicles are going faster because of the relative speed  
17 between the bus trip and the auto trip. And the problem with this is that as a standard,  
18 the only standard is if you maintain a ratio. And I don't think that as an adequate public  
19 facilities ordinance, maintenance of a ratio is a very good standard. Because it doesn't  
20 get to the question, which is at which point is there totally inadequate service? At which  
21 point is the road totally broken down? At which point are the conditions on the road such  
22 an impediment to transit that even fewer people are using transit, which I think is the  
23 problem that Marilyn spoke to. And I've, I hear this all the time from people. It's either  
24 how long I wait for the bus and how long the trip takes and how miserable the trip is  
25 because it's tied up in transit. So what we've got is basically a slide. And the conditions  
26 are allowed to get worse as long as they stay in relationship to each other, maintain a  
27 ratio to each other, and it seems to me what we ought to be doing is saying, you know,  
28 as an approval practice, how bad can road get before we decide it's not functioning then  
29 and what do we want for mitigation? My pitch is mitigation should be more trip  
30 reduction. I'm not, you know I'm not, I don't believe particularly in the downtowns that  
31 you have got much shot at widening anything in Bethesda to get another turning lane or  
32 you know, let alone an entire lane. So, if you can't do that, why, it seems to me that it  
33 implores you to move towards real trip reduction. Because anything else is just, you  
34 didn't like the word make-believe last time, but anything else is just not substantive. And  
35 you give credit for something that doesn't actually take the trip off the road. That same  
36 trip goes through the intersection that you also weren't able to improve because of the  
37 geometry of the intersection. And I don't see anything good coming out of that scenario.  
38 I don't see building a livable, walkable community out of that. I don't see encouraging  
39 people to use transit out of that. There are some people that seem to think the way we  
40 encourage transit use is to turn the roads into just a hellacious soup of, you know, or  
41 spaghetti where nothing moves. And I think you could remotely argue that if your road  
42 network was perched on top of New York City's subway system and you could say fool,  
43 get out of your car, go down, you know, 100 feet, get on the subway and you can get to  
44 the same place and why are you putting up with this nonsense. But in Montgomery



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1 County, you don't have a choice. There isn't the option of using transit readily. And the  
2 worst, to the extent that this system lets roads slide to slower and slower speeds,  
3 there's no way I see us getting people to switch out of cars and into transit. Now I think,  
4 you know, I would welcome the different modification of this test with real origin and  
5 destination pairs. I would welcome a discussion with DPWT about how then we address  
6 the problems that show up in that and what do we do to make it so that we get relative  
7 transit times that reach what I think you guys say you're trying to do which is to get the  
8 consumer to make the decision that going from Aspen Hills to Bethesda is a better trip  
9 by transit than it is by car. But I think a bunch of things have to happen together. And  
10 frankly in this stage of this test, I don't see it there. Is it better than the old Growth  
11 Policy? Possibly. You know, I could argue that it has some benefit. If it only collects  
12 money though and the money doesn't relate to improvements, I don't think any of us  
13 who engage the community about what their expectations are would be able to satisfy  
14 the community and say never mind, we actually couldn't make anything any better, but  
15 look at the money I brought back. This, you know, our, you know, achievement for us, at  
16 least for me isn't going to be measured by you know, showing people how much more  
17 money I collected. I think it needs to translate in what we are able to accomplish on the  
18 ground. And I'm just concerned that this policy doesn't get us there. And I welcome the  
19 County Executive's suggestion of an intensive period of joint work between Park and  
20 Planning and the Executive and maybe some other independent people to look at this  
21 thing holistically. But I'm very frustrated with where we are now. And I'll just leave myself  
22 --.

23  
24 Royce Hanson,  
25 I would never guess that.

26  
27 Councilmember Elrich,  
28 Really?

29  
30 Council President Praisner,  
31 Councilmember Berliner wanted to comment and had also a question. So Roger.

32  
33 Councilmember Berliner,  
34 Thank you Madame Chair. And I too want to commend my colleague with respect to his  
35 passion on this issue and your knowledge on this issue. I certainly come into this  
36 conversation far less equipped than you do on terms of your understanding of these  
37 sets of issues and I have great respect for them. And I also have great respect for this  
38 institution and for our Chair. And so I just want to make sure that, at least my  
39 perspective with respect to this is that, you have acknowledged that this is not a perfect  
40 instrument. I think that's clear. I believe my colleague has pointed out some anomalies  
41 with respect to it that I do think are worthy of your exploration in the timeframe that you'll  
42 have as to how we can make this better. But what I also heard you say to us was that  
43 this was, at least in your judgment, significantly better than what we've had before and a



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1 significant step forward in our evolution towards something even better. Is that fair  
2 characterization?

3  
4 Royce Hanson,  
5 That's correct.

6  
7 Councilmember Berliner,

8 And I guess I've always found that the perfect is indeed the enemy of the good and that  
9 this is one of those situations in which we are trying to make a step forward and quite  
10 frankly, I'm not completely comfortable with it either. But I do appreciate and I was one  
11 of those who believe very strongly that we should have a Policy Area Review. And so I  
12 was not comfortable with the previous Council's elimination of it and believe that it is  
13 important for us to reinstate one. I will share with you that my fundamental issue in  
14 terms of sort of how this has been constructed is the extent to which it equates, gives  
15 equal weight to transit and auto travel, in fact my understanding is, and Karl you correct  
16 me if I'm wrong, that actually under the formula that you've provided us, it gives a little  
17 more weight to transit than it does to auto. It could be a 52/48 weighting but it is  
18 something a little more than that.

19  
20 Karl Moritz,

21 Yeah and I was basing it on that slope of the PAMR chart. It is nearly 1 to 1, but in  
22 certain areas it gets a little sharper so, yes.

23  
24 Councilmember Berliner,

25 And my concern with respect to that equal weighting is not that we should not be  
26 honoring transit and not that we shouldn't be encouraging transit. But by giving the  
27 equal weighting, I think it in fact produces the result that the Chairman has articulated  
28 very clearly, which is it allows for more congestion in areas that have transit than would  
29 otherwise be the case. It is an implicit acknowledgment that in certain areas of the  
30 County, we can in fact should, and our policy is do encourage it to get worse as a  
31 means of promoting more transit. If I have overstated that, please feel free to correct me  
32 Dan.

33  
34 Dan Hardy,

35 I would say that we have said it's, there are other policy goals we want to achieve where  
36 we've got good transit in terms of fiscal produce, what it costs to provide intersection  
37 capacity, urban design goals in terms of what kind of experience we want and you  
38 know, that links very much to pedestrians being just as important as vehicle movement  
39 or if not more so important than vehicle movement, so that it's not just that we want to  
40 use congestion to get people to use transit as the type of places we want to create  
41 around transit or places that are likely given their density to have some congestion.

42  
43 Royce Hanson,



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1 There may even be situations as we come into master plans in which, through redesign  
2 of an area, that traffic movement may actually be improved, rather than at the same  
3 time that the transit usage can be substantially increased. Part of that relates to  
4 providing a grid in an area that has been made up into super blocks, heretofore, in  
5 which there were no alternatives for local traffic except to use the same road as through  
6 traffic. So being able to disperse the local traffic can have a very important effect on the  
7 way the condition of the road is perceived and used. But at the same time, you may be  
8 increasing density in the area substantially and a great deal of that density, rather than  
9 using road space would be using transit space. So, you try to balance these things out  
10 the best you can.

11  
12 Councilmember Berliner,

13 Just so we are real clear, I am totally in accord with promoting transit to the maximum  
14 extent possible. And I'm seeking mitigation to the maximum extent possible in order to  
15 bring about that result. And in some ways the formula, as you and I have discussed by  
16 virtue of the line that we have here, produces less mitigation because of the equal  
17 weighting given to transit than we would produce if we had, for example, a 60/40  
18 weighting of autos to transit. The line would be, and I have a visual representation of it  
19 that your staff has been gracious enough to produce, would be flatter than that line.  
20 Therefore you would have more, quote, acceptable with full mitigation coming into play  
21 than we do now. If we made a slight adjustment to PAMR, not to its underlying concept,  
22 but a slight adjustment to PAMR that would reflect what is more, I believe, the reality on  
23 the ground which is that traffic is terrible, that our buses are stopped and we want to  
24 create a context in which we create more mitigation as opposed to less. Now the  
25 percentage of mitigation is a separate conversation. But I did want to share with my  
26 colleagues that Karl at my request, and Mr. Chairman, it was at my formal request, he  
27 certainly appreciated that you do not support this. Made it clear to me.

28  
29 Royce Hanson,  
30 I haven't even seen it.

31  
32 Councilmember Berliner,  
33 There you go. I promise you, you do not support this.

34  
35 Unidentified  
36 Plausible deniability.

37  
38 Councilmember Berliner,  
39 But I have shared with staff --. [multiple speakers]. Oh okay. Yes she does.

40  
41 Council President Praisner,  
42 Yes you do.

43  
44 Councilmember Berliner,



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1 But again it is, if we compare this chart -- . [inaudible].

2  
3 Royce Hanson,

4 The only question I would have for you and without trying to get into the analysis of it is  
5 the basis for the decision.

6  
7 Councilmember Berliner,

8 And I'll probe that with you now because I don't know if the basis for a decision that  
9 would give 60% weighting to arterial mobility and 40% to transit is a qualitatively  
10 different judgment than that which currently has 52% transit and 48% RTR. You have  
11 decided that they should have an equal weighting for purposes of coming up with this. If  
12 there is some magic with respect to that, that you can point to, I would be happy to hear  
13 it. My understanding quite frankly was that this is the first time that these measures  
14 have been combined in this manner and this was your considered judgment. But these  
15 are judgment calls.

16  
17 Royce Hanson,

18 That's correct.

19  
20 Councilmember Berliner,

21 And therefore, if there is a judgment that we need to give slightly more emphasis to the  
22 experience of the auto traveler, not because we want to reinforce road building, but  
23 because we want to honor that there is more congestion than I believe that this  
24 methodology produces and therefore would produce more dollars and more mitigation  
25 than this methodology would produce. I would see that as a good thing. But I will defer  
26 while you are conferring.

27  
28 Royce Hanson,

29 Okay. I'll reserve a comment.

30  
31 Councilmember Berliner,

32 All right. Please do and --.

33  
34 Royce Hanson,

35 Look at it.

36  
37 Councilmember Berliner,

38 I would be grateful if you'd look at it.

39  
40 Council President Praisner,

41 Let me just say again what I said before. We really do need your comments and staff  
42 comments, but we need them this week. Just because I don't want to get to the point on  
43 Tuesday where we're seeing for the first time any kinds of comments or reactions or  
44 Friday when we get the packet so to speak, because if there's something that it



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1 generates as a further question, I don't want to wait until Tuesday to generate that  
2 further question.

3  
4 Royce Hanson,  
5 Well, we will have to look at it and try to give you a considered judgment on it. Given the  
6 amount of time that we spent developing this in the first place, I'm always a little leery of  
7 – revisions and --.

8  
9 Councilmember Berliner,  
10 Mr. Chairman, I appreciate your commitment to that which you have produced. I  
11 consider this to be a modest tweaking but one that would, Karl if you could, you had  
12 shared with me the results of this. And I think you see it in terms of the communities that  
13 currently do not now require mitigation, but would require mitigation as a result of this  
14 flatter line.

15  
16 Karl Moritz,  
17 Well, compared to the chart here which is the --.

18  
19 Royce Hanson,  
20 Committee.

21  
22 Karl Moritz,  
23 Committee, thank you.

24  
25 Councilmember Berliner,  
26 What you drew up for me, and again I did appreciate it, has 2013. And if this were a four  
27 year test, I don't know what impact it would have, but insofar as I personally am inclined  
28 to support the Council President with respect to her desire to make a four year test. Can  
29 you give me just --.

30  
31 Karl Moritz,  
32 Right and actually, I did both.

33  
34 Councilmember Berliner,  
35 Oh thank you.

36  
37 Karl Moritz,  
38 And the results I'm reading are the four year test.

39  
40 Councilmember Berliner,  
41 Thank you.

42  
43 Karl Moritz,



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1 And what it would do is add to the areas that 100% mitigation would be required.  
2 Actually, what it would do, I'll just stand up and show you.

3  
4 Council President Praisner,  
5 Can you put the lights out so that we can see that chart and see Karl against it? Good.  
6 Thanks Karl. Thank you.

7  
8 Karl Moritz,  
9 It adds these two squares and so, actually it adds these three squares and removes  
10 these two from the areas that would be required full mitigation. So the policy areas that  
11 would be added that require full mitigation would be North Bethesda, Aspen Hills and  
12 Potomac, thank you. And then these North Potomac, Montgomery Village and -- thank  
13 you. [multiple speakers].

14  
15 Royce Hanson,  
16 Rural east.

17  
18 Council President Praisner,  
19 They would go to the other side.

20  
21 Karl Moritz,  
22 So they would be --. Right.

23  
24 Councilmember Berliner,  
25 Karl, would BCC be in or out? It looks like it's right on the border.

26  
27 Karl Moritz,  
28 It's right outside.

29  
30 Councilmember Berliner,  
31 Just outside. Okay.

32  
33 Karl Moritz,  
34 So it would require partial mitigation in the 15 to 20 percent range.

35  
36 Councilmember Berliner,  
37 And again, let me express my appreciation to Karl again, knowing that this is something  
38 that you guys have worked on for a long time and I have shared with the Chairman in  
39 numerous conversations my own unease with it as it is currently formulated and I stand  
40 open to not proposing this Mr. Chairman. I am, would want to put it before you and have  
41 you consider it and I'd like my colleagues to consider it as well.

42  
43 Royce Hanson,



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1 The other thing that I think we have to think about on this is indeed the areas that would  
2 be placed in 100% or partial mitigation and what the effect of that might be on the  
3 County.

4  
5 Councilmember Berliner,

6 Yes. And I appreciate hearing from you your assessment with respect to that. I also  
7 wanted to turn, if I could Madam President to the issue, if we could put the previous  
8 chart up with respect to the, that one.

9  
10 Council President Praisner,  
11 Lights down.

12  
13 Councilmember Berliner,

14 Thank you very much. You read my mind. Do I understand correctly that current policy  
15 allows up to 90 trips to be mitigated by non-auto amenities irrespective of how many  
16 trips the, are generated by the project?

17  
18 Dan Hardy,

19 The second part is true, although the 90 is only in areas that have a CLV congestion  
20 standard of 1550 to 1600. They can go up to 120 within Metro Station policy areas, it  
21 goes down to 60 in any place where the CLV congestion standard is 1500 or lower.

22  
23 Councilmember Berliner,

24 So looking at that 50,000 square foot building that would come into existence that if I  
25 read that chart correctly would generate something in the order of 40 trips, all of the  
26 trips that are generated by that facility could now be mitigated by non-auto amenities  
27 under the rules that exist today?

28  
29 Dan Hardy,

30 That is correct for Local Area Transportation Review.

31  
32 Royce Hanson,

33 If we had permitted them to do it that way.

34  
35 Councilmember Berliner,

36 If you permitted them to do it that way.

37  
38 Royce Hanson,

39 We could require that none of them be done that way.

40  
41 Glenn Orlin,

42 And it's important that the we in this case, -- was the Local Area Transportation Review  
43 guidelines which is a Planning Board's document. It's essentially, it's the toma to the





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1 bible okay. They are the ones interpreting it. If you felt strongly enough about this issue,  
2 I'm not saying you should or shouldn't.

3  
4 Council President Praisner,  
5 --within the policy.

6  
7 Glenn Orlin,  
8 If you felt strongly enough about it, you could put specific language in the Growth Policy  
9 itself which would, you know – .

10  
11 Council President Praisner,  
12 Provide more stringent guidelines.

13  
14 Councilmember Berliner,  
15 I am one member and I believe that there are more than one of us that would ask staff  
16 in conjunction with our Planning Board to see if we could work together to give you  
17 more explicit guidance from the Council, because I personally am uncomfortable with  
18 that level of discretion even though I hear your own view is that it wouldn't be exercised  
19 in the manner in which we fear. It just seems off to me that we would have this level of  
20 discretion and that we could define it a little more clearly to eliminate the concerns that  
21 many of us have with respect to the non-auto amenity issue.

22  
23 Council President Praisner,  
24 Marc, you wanted to comment on that point?

25  
26 Councilmember Elrich,  
27 [inaudible].

28  
29 Council President Praisner,  
30 Okay, then I'll come back to you if it's not on that point. Councilmember Berliner.

31  
32 Councilmember Berliner,  
33 I think that those were basically the points. And I do want to underscore my own  
34 personal belief that this, if we were to adopt this either with or without my suggestion,  
35 and I get that this is a step forward and I get that we're not where we want to be, but we  
36 have an opportunity to move the ball forward and I for one am prepared to be supportive  
37 of that effort to have a Policy Area Review to move us forward and to, at the same time,  
38 should seek to perfect this on an ongoing basis.

39  
40 Council President Praisner,  
41 Okay staff is burning to make a comment before I call on Vice-President Knapp. And  
42 then I have a couple of more Councilmembers and then the question is, yeah, I also  
43 recognize the County Executive wants to comment. But I want to make, I want to get in



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1 the context. I told folks 4:00 p.m. we would end. So we are close to done. But I want to  
2 make sure we get through this.

3  
4 Councilmember Floreen,  
5 Are we going to do the --.

6  
7 Glenn Orlin,  
8 Transportation Impact Tax, Recordation Tax.

9  
10 Council President Praisner,  
11 Yes, we are. Yes, we are.

12  
13 Councilmember Floreen,  
14 Recordation Tax.

15  
16 Council President Praisner,  
17 Yes ,we are. But that's why I'm trying to lay out what is left to, that's why I'm trying to lay  
18 out what is left to do and everybody to look at their clocks as we go through, and their  
19 obligations as we go through this process since 4:00 p.m. is what we had identified  
20 earlier. Glenn.

21  
22 Glenn Orlin,  
23 Just real quick. The, just to understand the implications of both the Planning Board, of  
24 the Committee's recommendation for the PAMR chart and Mr. Berliner's suggestion.  
25 The Committee's impacts are on page 15. Those areas. And as it turns out, this is the  
26 way it's turned out. None of those areas are policy areas which have Metro Station  
27 policy areas within them. So the Committee's recommendation would not have in effect  
28 require either full or partial mitigation on any Metro Station policy area. Mr. Berliner's  
29 suggestions to be studied would put Grovner, White Flint and Twin Brook in the full  
30 mitigation column, it would put Friendship Heights and Bethesda CBD in the partial  
31 mitigation column and it would not effect Shady Grove or Glenmont or Wheaton nor  
32 Silver Spring.

33  
34 Council President Praisner,  
35 Okay. I'm going to turn to Vice-President Knapp now and then to Councilmember Elrich  
36 and Councilmember Floreen, and then we need to move to the revenue pieces.

37  
38 Councilmember Knapp,  
39 All right. Thank you Madam President. I'm still trying to see if I understand the pieces  
40 that are here. But I guess, two questions and then – to go with Glenn or with Karl to  
41 actually explain all this to me. First of all, pretty simple. And so I'm looking at the chart,  
42 this one.

43  
44 Council President Praisner,



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1 Just an ordinary guy.

2  
3 Councilmember Knapp,  
4 Just as, that's right, I'm a simple country lawyer. And it's just simple. If I'm trying to  
5 explain this to somebody I represent, tell me, -- . [multiple speakers]. I got these  
6 percentages on the two axis. What does that mean? If I, practically --.

7  
8 Dan Hardy,  
9 The left axis means how much you are delayed in traffic, the bottom axis.

10  
11 Councilmember Knapp,  
12 100% meaning what?

13  
14 Dan Hardy,  
15 100%, 100% means.

16  
17 Councilmember Knapp,  
18 I could go no place?

19  
20 Dan Hardy,  
21 No. Actually it's the inverse of that. 100% means middle to light.

22  
23 Councilmember Knapp,  
24 100% means I get wherever I want as fast as I want to go?

25  
26 Dan Hardy,  
27 It's, you travel as fast in congestion as you would if you were making the trip at  
28 midnight.

29  
30 Councilmember Knapp,  
31 Okay. And --.

32  
33 Dan Hardy,  
34 The chart on the bottom is, given I'm an average person and I work wherever the  
35 average people in my community want to work.

36  
37 Councilmember Knapp,  
38 Remember, it's Montgomery County, we have no average people.

39  
40 Dan Hardy,  
41 That's right. Everyone's above average. How much is transit competitive to the auto and  
42 so 100% on that axis means I can get where I want to go on transit as quickly as I can  
43 on the auto. 50% means it's going to take me twice as long to get where I want to get



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1 by, where I want to go on transit as on the auto. That's only transit time. We talked  
2 parking charges before, there's a lot of things that decides --.

3  
4 Councilmember Knapp,  
5 Okay.

6  
7 Dan Hardy,  
8 --time that make people make their choices.

9  
10 Councilmember Knapp,  
11 So 100% on the bottom means axis means-- .

12  
13 Dan Hardy,  
14 Means that transit is as fast as the auto for the average person in your policy area.

15  
16 Councilmember Elrich,  
17 But not going to the same places.

18  
19 Dan Hardy,  
20 No, for the average person, for the average people are going --.

21  
22 Council President Praisner,  
23 [multiple speakers]. I'm sorry Marc. It's conversation between Dan and Mike. I've got to  
24 have a little bit of order or we are never going to get through this.

25  
26 Councilmember Knapp,  
27 Okay. All right well, all right then. I'm just going to ask two questions and I'll explain, I'll  
28 get more information further. But the other piece is that I'm trying to understand, how do  
29 you get from this, which is a relative discussion of time of me getting from point A to  
30 point B and correlate that to the Critical Lane Volume discussion that we had which  
31 talks about number of vehicles going through an intersection? How, we didn't have a  
32 time associated with that, that was just number of things happening at a single point.  
33 How does one get me to another?

34  
35 Dan Hardy,  
36 They are both different measures of the same kind of trip making phenomenon, we think  
37 the CLV is where we've been. We think PAMR is where we are headed.

38  
39 Councilmember Knapp,  
40 And in fact, one of our next studies is to say, can we do more mobility oriented  
41 measures in even the LATR study in future years? So measuring mobility and time is a  
42 step forward from measuring capacity. Which is what the CLV system still does. Okay.  
43 All right. I appreciate your efforts. I mean you are trying to take something that as Ms.  
44 Praisner said at the very beginning was in a black box that no one understood except



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1 for you guys, something went in and something came out the other side and tried to  
2 make that a transparent exercise. I think that's plausible. I'm still trying to understand  
3 all the pieces.

4  
5 Royce Hanson,  
6 You are thinking the glass is still a little cloudy, maybe.

7  
8 Councilmember Knapp,  
9 It's rather opaque. But that's okay. I like people that try. That's a good thing. And so I'll  
10 have some more questions but that at least helps clarify how we got to here. Thanks.

11  
12 Council President Praisner,  
13 Okay Councilmember Elrich. Briefly on comments, any questions.

14  
15 Councilmember Elrich,  
16 Yes. I wanted to say on the last comment, this bit about the average person. In the first  
17 presentation you gave us, you pointed out, used in the Aspen Hill example that most of  
18 the trips by transit were going to different places than the trips by car. So the average  
19 person is in fact going to different places, depending on which mode they are using. So  
20 it's not a comparison, there is no average person. People take trips for specific reasons.  
21 If most people are going from Aspen Hill to Wheaton to hit transit there, that's because  
22 they have got jobs related to that destination in Wheaton and not because of the relative  
23 time likely of that trip versus going to Bethesda by car. And so I think this gets back to  
24 what I think you need to get to origin destination pairs. But the other comment I wanted  
25 to make was on a comment you made Royce about you wanted to see what effects this  
26 would have. And I just want to caution against adding projects, or beginning to look at  
27 projects and saying what's the impact on projects? I mean, this is supposed to be, if you  
28 are doing this right, an objective standard in the definition of adequate public facilities.  
29 Adequate public facilities doesn't have anything to do with the number of projects that  
30 you know about, or that may want, or you suspect may want to come in. This is about,  
31 can the infrastructure handle it? And I have a previous experience many years ago, no  
32 Councilmember who is here of sitting in somebody's office listening to a discussion of  
33 when there was a jobs ceiling in the Silver Spring and Bethesda and that person  
34 decided what the job ceiling was going to be not on the adequacy of the infrastructure  
35 which Planning Board was then recommending, but literally sat there and added up the  
36 number of projects that they knew were proposed and said my job ceiling is the sum of  
37 these projects.

38  
39 Royce Hanson,  
40 You have put your finger on exactly the problem. The PAMR chart that we gave you  
41 was based on the initial establishment of the scale and after the scale was established,  
42 we applied the methodology to the policy areas and let them fall where they may. What  
43 concerns me at this point is moving the goal posts, if you will, and one can't do that at  
44 this point without seeing what happens.



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1  
2 Council President Praisner,  
3 Well but --.  
4  
5 Royce Hanson,  
6 We are not moving any of the policy areas. But you're moving the lines to include some  
7 policy areas.  
8  
9 Councilmember Elrich,  
10 No.  
11  
12 Council President Praisner,  
13 No.  
14  
15 Royce Hanson,  
16 Well, you sure are.  
17  
18 Councilmember Elrich,  
19 It happens as a result of a judgment, just like your judgment.  
20  
21 Council President Praisner,  
22 Right.  
23  
24 Royce Hanson,  
25 That's a great difference in that.  
26  
27 Councilmember Elrich,  
28 You, --.  
29  
30 Council President Praisner,  
31 No there isn't.  
32  
33 Royce Hanson,  
34 One is doing it blind, and the other is doing it really seeing what you are doing.  
35  
36 Council President Praisner,  
37 No. Not if we ask, no Royce, I'm sorry.  
38  
39 Royce Hanson,  
40 If you want to follow Marc's approach, it's better to do it --.  
41  
42 Council President Praisner,  
43 I'm sorry, I'm going to take the privilege of the Chair. If we ask you to make  
44 modifications and we don't know until you bring us those modifications what the results



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1 are, that is no different than the Planning Board asking you, you as a Planning Board  
2 member and staff developing something. The problem with the old Policy Area Review  
3 is that we started down the road of creating exceptions in order to allow specific projects  
4 and specific areas to have specific outcomes. That was the problem with the old  
5 process. I have no idea what the results will be. And I'm not making decisions based on  
6 how many areas or what specific areas, but I do know that you in Committee and your  
7 staff said to us that a policy judgment can be made as where you modify the lines. And  
8 a judgment of how much mitigation you want is also driven by the, where people fall.  
9 That is not saying I want to pull this metro area out or I want to push this policy area in.  
10 It is a judgment that a feeling that this isn't a stringent enough review at this initial point  
11 in time and having a concern that if it puts us in this situation we have to be more  
12 conservative and more cautious at the beginning. But it is not looking at a specific policy  
13 area. One could argue that that conversation went on at the Planning Board between  
14 staff before any of this appeared. I'm not making that judgment. So, please don't make  
15 that judgment about Councilmembers. Marc.

16  
17 Councilmember Elrich,

18 There is no science to where you guys placed your numbers. It's a judgment call and I  
19 agree with what the Chair, what Ms. Praisner just said. It is perfectly appropriate for us  
20 to decide beyond which we should not allow roads to deteriorate. It is perfectly  
21 appropriate for us to say what is an adequate level of service for transit. If I were trying  
22 to achieve a particular end, I could have drawn the line any way I wanted to. I merely  
23 tried to put a greater emphasis on what you say you value which is transit. I happen to  
24 like the model that Roger came up with. I think he looked at the same question I was  
25 looking at and said let's look at it a different way. But both of us are motivated by one,  
26 trying to get as much mitigation out of this as possible, a shared concern that mitigation  
27 be trip reduction and a shared concern that there be standards and standards that we  
28 can defend and go out to the community and say, we are trying to build a community  
29 which is sustainable and livable. And I think our concerns are as legitimate as whatever  
30 went into your thinking in doing this. And we may have reached different conclusions.  
31 But I sure didn't draw a map. Because if I had arbitrarily started drawing something,  
32 BCC would have been in my line on the very first part of it. I would have made sure I  
33 came up with a formula that included it if that was my intention.

34  
35 Council President Praisner,  
36 Councilmember Floreen.

37  
38 Councilmember Floreen,

39 Thank you. Just so we are clear under any scenario, the relative transit mobility and the  
40 relative arterial mobility, for relative transit mobility, what the Committee, just, I just want  
41 to make I get this correct, what relative transit mobility is required to satisfy is the  
42 definition of adequacy of 65% under this scenario. And under Roger's scenario, it's what  
43 Roger? Relative transit mobility is, you take it to 60. [multiple speakers]. And the relative



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1 transit mobility means 65% speed, that 65% of the speed that you would travel in at the  
2 middle of the night side, when there's no traffic.

3  
4 Dan Hardy,  
5 On the arterial side.

6  
7 Councilmember Floreen,  
8 On the arterial side. Just so I understand it.

9  
10 Royce Hanson,  
11 On the arterial side, right.

12  
13 Councilmember Floreen,  
14 65%. And that would be applied in every single part of the County no matter, period.

15  
16 Dan Hardy,  
17 Right, the thing you are measuring – .

18  
19 Councilmember Floreen,  
20 Without regard to anything other than that standard.

21  
22 Dan Hardy,  
23 Right.

24  
25 Councilmember Floreen,  
26 I just wanted to make it clear. So it's without regard to density, zoning, whatever. That's  
27 just the rule of adequacy.

28  
29 Dan Hardy,  
30 Right. All of the dots on the map were measured the same.

31  
32 Councilmember Floreen,  
33 So it would be, so 65% would basically be a County, 65 or 60 whatever the number,  
34 that's our definition of adequacy.

35  
36 Dan Hardy,  
37 I don't think actually anybody has proposed that.

38  
39 Councilmember Berliner,  
40 No, I didn't --.

41  
42 Councilmember Floreen,  
43 65%?





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1 Councilmember Berliner,  
2 I was trying to --.

3  
4 Councilmember Floreen,  
5 I thought that was what you all were saying.

6  
7 Councilmember Berliner,  
8 I'm just working within PAMR and trying to figure --.

9  
10 Councilmember Floreen,  
11 Well, I know.

12  
13 Councilmember Berliner,  
14 -- of PAMR. I wouldn't have proposed this to start with.

15  
16 Councilmember Floreen,  
17 Well, I'm not suggesting, but that's what's on the table right now.

18  
19 Unidentified  
20 Right.

21  
22 Councilmember Floreen,  
23 I just want to get it right.

24  
25 Councilmember Berliner,  
26 It's only for this level which is relative to the arterial speed.

27  
28 Councilmember Floreen,  
29 Well, but that's the level we're dealing with. I'm just trying to understand, because the  
30 fundamental issue that we have is explaining what is adequate. And something less  
31 than adequate at different levels you know, has different levels of mitigation as I  
32 understand it. But in terms of, so I think it's fair to say -- .

33  
34 Councilmember Berliner,  
35 Before you say it, all of these are below 65%, so just notice, they're still adequate.

36  
37 Councilmember Floreen,  
38 Well, that's my challenge. I'm trying to understand what the definition is of adequate  
39 under these collective, individual proposals and if we don't have that answer today, I  
40 would request that we have the answer.

41  
42 Royce Hanson,  
43 I think the answer to adequacy is that as the charts have evolved, there are sort of three  
44 levels. There are those areas that have high levels of relative mobility that the



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1 relationship between automobile mobility and transit mobility is such that whether they  
2 are served primarily by roads or not, the facilities and the travel time are acceptable and  
3 therefore we assume that the infrastructure is adequate.

4  
5 Councilmember Floreen,  
6 Well, I know.

7  
8 Royce Hanson,  
9 And then if they are left of the stairs, wherever you put the stairs.

10  
11 Councilmember Floreen,  
12 Yeah, look, I'm just trying --.

13  
14 Royce Hanson,  
15 The facilities are inadequate.

16  
17 Councilmember Floreen,  
18 I've gone to all these meetings. We've been there. And I'm still struggling with what we  
19 communicate and collectively as a community agreed upon as adequate for transit  
20 accessibility, mobility which is what was being proposed. And if at 65% or 50 or  
21 whatever the number is, it's a percentage of, I think during the most congested period  
22 how it's less, it does not meet what you would expect to experience in a time when no  
23 one is on the road. Is that correct?

24  
25 Dan Hardy,  
26 From the arterial side.

27  
28 Councilmember Floreen,  
29 On the arterial side, so that's correct.

30  
31 Royce Hanson,  
32 On the arterial side.

33  
34 Councilmember Floreen,  
35 Okay. fine. I have a request, since we are making a list of things to look at next week. I  
36 raised this issue with affordable housing in the schools test. And I would like us to have  
37 a couple options on the transportation test. As we make these tests tougher, it's less  
38 likely, I think, that we will be able to address some of our affordable housing goals. So I  
39 would like to see options for exempting either 30%, a project -- the 30%, where there's  
40 30% of the housing committed to being affordable. A proposal of exempting the entire  
41 project or exempting the 30% number from these tests. That's something we're looking  
42 at in terms of the fees as well.

43  
44 Council President Praisner,



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1 Okay. I believe Edgar you indicated that you wanted to make a comment on behalf of  
2 the County Executive.

3  
4 Edgar Gonzalez,

5 Yes. Very quickly. Number one. The County Executive in his letter to you has stated  
6 that he wants, he is very supportive of Policy Area Reviews. He believes that that  
7 should occur, but he also believes that the methodology we use should be effective,  
8 reliable, readily understood, and deal with – that we seek that are compatible with the  
9 balance that we had been stating for 30 years or more that we have a balance between  
10 transportation and the infrastructure and the development that we approve in the  
11 County. That's number one. Number two, the old policy that you had been talking about  
12 was criticized because of the black box and the number of exemptions that it had. Let  
13 me point out to you that there is also what you are looking at, as you look at the relative  
14 transit mobility and as you look at the relative arterial mobility, are the outputs of that  
15 same black box that takes into consideration transit. So it is still the results of the black  
16 box that now we are interpreting one way or another way or another way, but is still the  
17 same thing. Bottom line is not transparent to the citizens, is very difficult to explain to  
18 the average citizen, even those that follow this type of issues in detail. Number three,  
19 remember transit service that we provide in the County today, we carry more people in  
20 buses than in fixed rail. Okay. More people use our ride on and metro buses than are  
21 carried by – and metro rail combined. So it is very important that you remember that and  
22 that associated with that in this County today and for the next five years probably, we  
23 have the ability to increase our bus fleet by a grand total of two, one, two buses in this  
24 County. That's the capacity that we have because of other decisions that had been  
25 made. Four, one of the concerns that the County Executive expressed in his letter was  
26 the issue of reliability of the results. When you look at the results that were presented  
27 before for 2013 versus 2011, we point out how in the 2013 model, the rural west turned  
28 out to be, where, this is Dickerson and Barnesville, where we have a MARC service and  
29 we have, at Dickerson we have about 9 to 12 spaces. In Barnesville we probably have  
30 100. But that area has a lot better transit service according to this chart than  
31 Germantown when we are running headways, of five minute headways and now we are  
32 considering that is similar to -- yet it has a much lower level of service for transit than  
33 does Dickerson. So we have concerns with that. But when you look at that, and you  
34 look at the 2011 results, all of a sudden the numbers have shifted for the rural west.  
35 Now, and I don't see what we would have done as far as capacity for transit, or as far as  
36 roads in the rural west that would shift the results. So is, so you need a model that  
37 consistently gives you results, not, you know, or else. Finally, the County Executive.

38  
39 Council President Praisner,  
40 Go ahead.

41  
42 Edgar Gonzalez,

43 Finally, the County Executive has requested that rather than adopting a model with  
44 questionable results, he specifically again expressing tremendous support for Policy



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1 Area Review, he would rather take 6 to 9 months to come out with something that is  
2 more transpiring, easier to understand and more related to the master plans where we  
3 are supposed to be in balance.

4  
5 Council President Praisner,

6 Thank you. I do need to ask a question and have staff answer it. What's the difference  
7 between 2011 and 2013 that changes where people are on the chart?

8  
9 Dan Hardy,

10 There's five major things. The one that gets to Edgar's point is that the piece of Corridor  
11 Cities Transit Way between Metropolitan Grove and Comsat has been removed. The  
12 other biggest thing is the Intercounty Connector is not assumed in 2011, but is assumed  
13 in 2013. Observation Drive construction and Goshen Road extended are the two other  
14 Montgomery County pieces and the Dulles Metro Rail extension is also removed in  
15 2011 which maybe has some small effect.

16  
17 Council President Praisner,

18 So the difference between 2011 and 2013 is that you are not looking at the two years of  
19 a capital budget or two years of development of capacity because it's two years further  
20 out.

21  
22 Dan Hardy,  
23 Right.

24  
25 Council President Praisner,

26 And so that's the difference between 2011 and 2013. It's not any different approach of  
27 looking at anybody. It's a difference of counting what you can count as far as what's  
28 there.

29  
30 Glenn Orlin,

31 How can you count Corridor Cities Transit Way? It's not appropriate. [inaudible].

32  
33 Council President Praisner,

34 Well whether you count it or not, the point is that that's the difference.

35  
36 Glenn Orlin,

37 Supposed to be what is programmed.

38  
39 Dan Hardy,

40 Well the answer is it's in the constrained long range plan. It's already --.

41  
42 Glenn Orlin,

43 Okay.



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1 Councilmember Floreen,  
2 Well, that's --.

3  
4 Glenn Orlin,  
5 All right. [multiple speakers]. Yeah.

6  
7 Council President Praisner,  
8 Well --.

9  
10 Glenn Orlin,  
11 On that assumption, it would be. But you are not going for a six year test anyway. Your,  
12 the Committee's recommendation is for four years.

13  
14 Council President Praisner,  
15 Well, that was my point but Edgar made the point that something in 2013 changed  
16 dramatically in 2011. And the point is that there is capacity, whether you agree with it or  
17 disagree with it, something happened between 2011 and 2013 that the Committee has  
18 some concerns about counting. But that's what happens. You can have a difference of  
19 opinion about how many years you count, but you're still looking at the same thing. So  
20 we haven't changed the assumptions for a rural area. We've counted something or not  
21 counted something.

22  
23 Councilmember Floreen,  
24 Well it does, if I might interject, also raise the question, do you count the Purple Line in  
25 here?

26  
27 Dan Hardy,  
28 Not the whole Purple Line. I'd have to go back and check the Georgetown Branch.

29  
30 Councilmember Floreen,  
31 Really?

32  
33 Dan Hardy,  
34 I'd have to check and see if that's in there.

35  
36 Councilmember Floreen,  
37 There are a lot of questions to be asked then.

38  
39 Council President Praisner,  
40 Well, the point then I would ask you to make a list of is the extent to which things are in  
41 our capital budget or not that you've counted, a six year CIP.

42  
43 Glenn Orlin,



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1 Can I ask and just make sure that for the four year PAMR charts that they reflect what is  
2 actually programmed?

3  
4 Council President Praisner,  
5 Correct.

6  
7 Glenn Orlin,  
8 The state and County programs.

9  
10 Council President Praisner,  
11 That's what it's supposed to be.

12  
13 Glenn Orlin,  
14 That's what the Committee is recommending now at least.

15  
16 Council President Praisner,  
17 Right.

18  
19 Glenn Orlin,  
20 And that's consistent with what.

21  
22 Council President Praisner,  
23 And consistent with what the expectation was for 2013 if not for 2011 or any of them  
24 was the same assumptions of what's calculated. Just very briefly because folks are  
25 staying until we go through everything.

26  
27 Councilmember Floreen,  
28 We're all just kind of startled about that.

29  
30 Council President Praisner,  
31 Yeah.

32  
33 Councilmember Floreen,  
34 And I just ask if road projects, I guess you're assuming some kind of build out and  
35 construction of whatever has been approved under some level so that there, you know,  
36 there, the cards associated with that as well as any improvements associated with those  
37 projects that you guys have approved. Or maybe not?

38  
39 Dan Hardy,  
40 It's our full pipeline.

41  
42 Councilmember Floreen,  
43 It's your full pipeline.



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1 Council President Praisner,  
2 But that's approved already.

3  
4 Dan Hardy,  
5 Right.

6  
7 Council President Praisner,  
8 That can go forward and doesn't have to make any improvements.

9  
10 Councilmember Floreen,  
11 Right.

12  
13 Council President Praisner,  
14 So, you can't calculate an improvement that isn't associated --.

15  
16 Councilmember Floreen,  
17 Well, whatever they had to do.

18  
19 Council President Praisner,  
20 Whatever they did but they --.

21  
22 Councilmember Floreen,  
23 Whatever.

24  
25 Council President Praisner,  
26 They didn't have to.

27  
28 Councilmember Floreen,  
29 Well they did. Most of them had to do something.

30  
31 Dan Hardy,  
32 [multiple speakers]. Is A305 in Clarksburg is assumed and that's a developer  
33 commitment.

34  
35 Councilmember Floreen,  
36 So like that. So you are assuming full build out of everything, the 27,000 housing units,  
37 6 million square feet of office that's in the pipeline?

38  
39 Dan Hardy,  
40 If it's in the pipeline, I don't know the numbers in the pipeline.

41  
42 Council President Praisner,  
43 It's approved.



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1 Councilmember Floreen,  
2 I know it's approved but do you --.  
3  
4 Council President Praisner,  
5 Can't stop it from going forward.  
6  
7 Councilmember Floreen,  
8 Oh, I know but you assume that it would be constructed within the next four years.  
9  
10 Council President Praisner,  
11 Right.  
12  
13 Dan Hardy,  
14 In the 2011 test. When we put a number on the test, that's been the --.  
15  
16 Councilmember Floreen,  
17 Regardless of any other forecasts, okay.  
18  
19 Dan Hardy,  
20 We are assuming the same pipeline --.  
21  
22 Council President Praisner,  
23 Okay. The question that I've been asked is a question of what else may be in the  
24 assumptions beyond our CIP and the funding assumptions. So if you can get us that list.  
25  
26 Dan Hardy,  
27 Yeah.  
28  
29 Council President Praisner,  
30 I think the question is what is the effect of not including them because the Committee  
31 did not assume that they would be included.  
32  
33 Dan Hardy,  
34 Right.  
35  
36 Glenn Orlin,  
37 I guess, is the only, real specific, I mean the Committee's recommendation is for four  
38 years starting now, Ms. Floreen's was five years starting in July.  
39  
40 Council President Praisner,  
41 In July.  
42  
43 Glenn Orlin,





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1 So in terms of these charts, do you want one or two or three versions of that depending  
2 upon the number of years, is anybody interested in five years from now? We have the  
3 school test both four years from now, five years from now, and five years from July. Do  
4 you want the PAMR charts that way too?

5  
6 Council President Praisner,  
7 We probably should have those charts done but with the parameter, the same  
8 parameters as far as the CIP.

9  
10 Glenn Orlin,  
11 Or CTP.

12  
13 Council President Praisner,  
14 Or CTP.

15  
16 Glenn Orlin,  
17 Right.

18  
19 Council President Praisner,  
20 Okay. We need to move to the revenue elements and since Ms. Trachtenberg had to  
21 leave I'm going to turn it over to Mr. Faden. [multiple speakers].

22  
23 Michael Faden,  
24 Okay, on the Transportation Impact Tax, if you go to page 5 of the revenue packet,  
25 large revenue packet, you will see the Planning Board's proposed rates which are  
26 based on a revised way to calculate the relative land use impacts of the different land  
27 uses. They particularly revised how they consider trip impacts. I won't go into the  
28 details, because I can't. Glenn can if you really want to know. Result was the rates  
29 shown here which raise residential rates fairly substantial, office and industrial quite a  
30 bit more and of course retail way, way up. The Committee did not adopt the, this  
31 approach was also based on 100% marginal cost recovery, MFP Committee did not  
32 adopt this approach and so they went to the rates shown on circle 7 which are based on  
33 the current model of land use, relationships between the different forms of land use.  
34 Instead this just increased all the current rates in the first and third columns by 70%.  
35 Simple arithmetic. It increased the rates in the Metro Station policy areas in the middle  
36 column and set them at 75% of the County wide general district rates rather than the  
37 current 50%.

38  
39 Councilmember Floreen,  
40 What page are you on?

41  
42 Michael Faden,  
43 I'm sorry.



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1 Council President Praisner,  
2 Circle 7 of the -- packet --.

3  
4 Michael Faden,  
5 Page 7 of the --.

6  
7 Council President Praisner,  
8 Page 7 and circle 7.

9  
10 Michael Faden,  
11 Of the revenue packet.

12  
13 Council President Praisner,  
14 Okay.

15  
16 Michael Faden,  
17 So page 7, the table there shows the Committee's Transportation Impact Tax rates,  
18 which are different from the Planning Board's rates, more larger in residential, smaller in  
19 office, relatively speaking and especially in retail.

20  
21 Council President Praisner,  
22 Okay.

23  
24 Michael Faden,  
25 And also the Committee recommended that these rates take effect for building permit  
26 applications filed on or after December 1st.

27  
28 Council President Praisner,  
29 Nancy, question.

30  
31 Councilmember Floreen,  
32 Well, just the County Executive recommended 60%?

33  
34 Michael Faden,  
35 60% of the Planning Board rates, which is hard to translate to compare to these  
36 Committee rates.

37  
38 Glenn Orlin,  
39 I think it is 60% of the increase that the Planning Board recommended.

40  
41 Michael Faden,  
42 Right. Right.

43  
44 Jennifer Barrett,



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1 Yeah, it's 60% of the Planning Board's increase, works out to be about 20 point  
2 something of what has been.

3  
4 Glenn Orlin,  
5 It's probably about 80% of what the Planning Board's rates are.

6  
7 Council President Praisner,  
8 Committee recommended.

9  
10 Glenn Orlin,  
11 Yeah.

12  
13 Michael Faden,  
14 Right. And these, I'm sure, said the Committee rates represent 90% marginal cost  
15 recovery.

16  
17 Councilmember Floreen,  
18 It would be handy, you are saying it is difficult to translate the practical  
19 recommendations?

20  
21 Michael Faden,  
22 We could probably do it .

23  
24 Councilmember Floreen,  
25 We would like to understand how they do it.

26  
27 Glenn Orlin,  
28 If you look at circle 5, I'm sorry, page 5 in the same packet. If you take Mr. Leggett's  
29 recommendation literally, what you do is this again, this is the Planning Board's  
30 proposed rates and what it is charged now. If you take Mr. Leggett's proposal literally,  
31 what you do is you look at the distance between the now and the proposed and go 60%  
32 of the way up between the now and the proposed. So for, if you bear with me, for a  
33 single family detached house in the general district, which is now 6264, the Planning  
34 Board would recommend increasing it by \$2,116. Mr. Leggett would recommend  
35 increasing it by \$1,270 which would bring it up to \$7,534.

36  
37 Councilmember Floreen,  
38 Okay. Okay. Is, what was the Committee's thinking?

39  
40 Glenn Orlin,  
41 The Committee's thinking – .

42  
43 Councilmember Floreen,  
44 As between these various options.



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1  
2 Council President Praisner,  
3 If you were looking at, go ahead.

4  
5 Michael Faden,  
6 The Committee essentially opted for 90% marginal cost recovery rather than the  
7 Planning Board's 100% and sticking with the current ratios between the various land  
8 use types. So then it applied a flat 70% increase to the two major categories and as I  
9 mentioned shifted the percentage that the Metro Stations pay of the, as compared to the  
10 Countywide rates.

11  
12 Council President Praisner,  
13 Okay. Other question Nancy.

14  
15 Councilmember Floreen,  
16 So it doesn't, I'm just looking at that first, vis-à-vis the Planning Board and keeping in  
17 mind the County Executive is just that much less, the 90%, well, really just take the  
18 current rates and add 70%.

19  
20 Michael Faden,  
21 Right.

22  
23 Jennifer Barrett,  
24 I don't know if it'd be helpful.

25  
26 Councilmember Floreen,  
27 Simple math.

28  
29 Glenn Orlin,  
30 For the general district and for Clarksburg.

31  
32 Councilmember Floreen,  
33 Yeah.

34  
35 Glenn Orlin,  
36 For the Metro Station areas it ends up being effectively much bigger increase because  
37 what you are doing, instead of saying it's half of what the general district is, you'd now  
38 be saying it is three-quarters of what the general district is.

39  
40 Council President Praisner,  
41 75% of what the general.

42  
43 Glenn Orlin,



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1 So you are effectively, you are increasing the Metro Stations by 70% and then again by  
2 another 50%.

3  
4 Councilmember Floreen,  
5 And I was wondering about that. The rationale is.

6  
7 Glenn Orlin,  
8 The rationale is that.

9  
10 Councilmember Floreen,  
11 For doing it for, increasing it that much.

12  
13 Glenn Orlin,  
14 The rationale is that when this, when we started Countywide Impact Tax we were  
15 wanting to very much promote and incentivize development at Metro Station policy  
16 areas. However we found that in the last couple of years particularly, that's where a lot  
17 of the development wants to go. And so the need to incentivize it isn't as great as it  
18 used to be. Secondly, the relative transit impact of a Metro Station policy area versus  
19 outside is about 25%. You get about a 25% better mode split than you would an area  
20 outside of the Metro Station.

21  
22 Councilmember Floreen,  
23 So it's the policy rationale.

24  
25 Glenn Orlin,  
26 So it's really more of the first rationale though which is we are losing the possibility for  
27 some revenue here.

28  
29 Michael Faden,  
30 Both equally valid.

31  
32 Council President Praisner,  
33 Okay.

34  
35 Glenn Orlin,  
36 Both valid, but --.

37  
38 Council President Praisner,  
39 Okay. Let's go on. We want to end by 5:00.

40  
41 Michael Faden,  
42 Okay. Sure. Land use categories. The Committee opted to retain bioscience as a  
43 separate category and retain the zero dollar rate. The Committee did not as you have  
44 already heard go with any expansion to the affordable housing exemptions. The



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1 Committee kept the exemption for enterprise zones and expanded it to include expired  
2 enterprise zones which – .

3  
4 Council President Praisner,  
5 What we found out is that the enterprise zones expired in December '06.

6  
7 Michael Faden,  
8 Silver Spring did.

9  
10 Council President Praisner,  
11 Silver Spring expired in December of '06. And there was some concern that we had not  
12 been informed of that in a way that would allow us to do something proactively or react  
13 to it in a timely fashion. So that plus the tax credit issue where there hadn't been a  
14 broader conversation to date are things that the Committee chose not to make any  
15 modifications to, where we may want to have further conversations about them, but not  
16 to take an action to change them at this point.

17  
18 Michael Faden,  
19 Right.

20  
21 Council President Praisner,  
22 We got a lot of correspondence within the last two weeks about the issue of credits.

23  
24 Michael Faden,  
25 Essentially, the shift, taking that issue next, the Executive.

26  
27 Councilmember Floreen,  
28 --category of issues.

29  
30 Council President Praisner,  
31 Yeah, put your mic on. Go ahead.

32  
33 Councilmember Floreen,  
34 We had a letter the other day from CSAAC, Community Services for Autistic Adults and  
35 Children, that highlighted a factor that is of concern to me at least. They point out that  
36 their addition for an administrative facility, which we understand is going to generate  
37 new employees, but it's for training and support of their mission which is serving autistic  
38 adults and children is subject to \$138,000 Impact Tax. I don't doubt that this is assigned  
39 in good conformity with our office requirements or whatever category of usage that this  
40 is applied to. But I do question our ability to make it possible for nonprofits to provide  
41 service with these kind of costs.

42  
43 Michael Faden,  
44 We do doubt whether the category was correctly assigned.



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1  
2 Councilmember Floreen,  
3 They do too. Because they are in court.

4  
5 Michael Faden,  
6 Right.

7  
8 Councilmember Floreen,  
9 But they do make the point as well that they have requested that we look at amending  
10 the code to provide that building permits associated with the construction of facilities  
11 constructed in furtherance of qualifying social service missions be exempt from all  
12 taxes. And I would say, could we look at this at least with respect to exemption from the  
13 Impact Tax?

14  
15 Council President Praisner,  
16 Well, we have – . I don't know that the Committee.

17  
18 Councilmember Floreen,  
19 We currently have place of worship.

20  
21 Council President Praisner,  
22 Conversation but the question of how you define that reminds me of the discussion  
23 about system development charge waivers, et cetera. There may be other ways to  
24 provide assistance than exempting people in this context.

25  
26 Councilmember Floreen,  
27 Well, let me just point out, we have had this significant exchange on bioscience with  
28 folks who can afford to have that conversation. We have a separate category for places  
29 of worship and for private schools. I don't see why we couldn't figure out a way to  
30 address the needs of groups of this nature. If we could take a look at that. I would  
31 appreciate it at least for next week.

32  
33 Michael Faden,  
34 We will check into it. And including the question of what category, whether they belong  
35 for example in the private school category instead of the office category.

36  
37 Councilmember Floreen,  
38 That would be good. And another level would be at least to not subject them to  
39 increases in the taxes. I mean – .

40  
41 Michael Faden,  
42 That's more difficult to –.

43  
44 Councilmember Floreen,



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1 I know. I know. The question is how do you address.  
2  
3 Michael Faden,  
4 Right.  
5  
6 Councilmember Floreen,  
7 Absolutely agreed upon – Committee goals.  
8  
9 Michael Faden,  
10 Well, you could create a new category. You could reassign them and others like them.  
11  
12 Councilmember Floreen,  
13 That would be a way.  
14  
15 Michael Faden,  
16 Sure.  
17  
18 Councilmember Floreen,  
19 Yes.  
20  
21 Michael Faden,  
22 Okay, I don't know that.  
23  
24 Council President Praisner,  
25 But my only point would be, we've heard about CSAAC but we don't know and what I  
26 have discovered from a variety of other folks who have raised these questions is, you  
27 have got to be careful how you phrase this such that you are clear as to what you are  
28 doing and what the unintended consequences might be.  
29  
30 Michael Faden,  
31 Right.  
32  
33 Council President Praisner,  
34 There may be other ways to provide assistance than creating categories that may  
35 capture more than what you think you are capturing.  
36  
37 Michael Faden,  
38 Right. This is also could be a front or back door.  
39  
40 Council President Praisner,  
41 Right.  
42  
43 Councilmember Floreen,





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1 Well, they're all, you know guys, the question is how you pay? Or do you get the service  
2 at all? And I'd like this one at least on our, before us for next week.

3  
4 Council President Praisner,  
5 Right. And that was my point, though. There are a variety of ways to do that.

6  
7 Michael Faden,  
8 Okay. Okay. We'll develop some discussion of that.

9  
10 Councilmember Floreen,  
11 Thank you.

12  
13 Council President Praisner,  
14 Okay.

15  
16 Councilmember Floreen,  
17 That was my question.

18  
19 Council President Praisner,  
20 All right.

21  
22 Michael Faden,  
23 A couple more issues that the Committee recommended, next one is the retired County  
24 match the current law has a provision on which, put in a few years ago, under which  
25 essentially the County has to match Impact Tax spending with general fund spending  
26 above a level of \$12 million, a base of 12 million a year, Committee decided and staff  
27 recommended that this be taken out of the law.

28  
29 Council President Praisner,  
30 Okay. On that issue, Councilmember Floreen.

31  
32 Councilmember Floreen,  
33 I really don't get this one. If the object of this whole effort is to provide infrastructure to  
34 support current and future populations. Why would we want to back down on the County  
35 obligation to be part of this effort?

36  
37 Council President Praisner,  
38 I don't think the Committee's view was that we were backing down.

39  
40 Councilmember Floreen,  
41 Well that's what it says.

42  
43 Council President Praisner,



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1 Maybe it's like your Georgetown branch document elsewhere. The Committee did not  
2 feel and agreed with staff that inclusion of the language of some kind of requirement  
3 when the funding contributions by the County have been there was necessary to  
4 include.

5  
6 Councilmember Floreen,

7 Well, okay fine. And we can take this up next week. But my only point is, I think this is  
8 absolutely contrary of where we are trying to go, which is to push ourselves to address  
9 infrastructure needs. And if we don't say it out front just as George mentioned, it has  
10 with respect to the other issue on the Georgetown branch, and you know, fine. If this is  
11 what we mean, I think we need to say it. Because if we don't say it, we will look at the  
12 significant dollars that this effort can conceivably generate as a replacement for County  
13 --. It's an issue with transportation dollars everywhere. They always sink to the bottom of  
14 the pile. And that's just the way it is in my modest experience doing this. And I really  
15 don't think that this is a rational approach to what, at least everyone agrees, this is a  
16 significant crisis in funding.

17  
18 Council President Praisner,  
19 Okay. Keep going.

20  
21 Michael Faden,

22 Three more issues. Committee discussed whether to keep Clarksburg as a separate  
23 Impact Tax district with its own rates. The Committee recommended doing so but would  
24 like to review that issue in two years. The Committee removed certain other geographic  
25 restrictions on how funds, Impact Tax funds could be spent. And finally on the credit  
26 issue, which is a later rising issue, both from the Planning Board and the Executive  
27 Branch who had in different ways wanted to cut back on the allowable credits for  
28 providing transportation capacity which have been in the law since day one, the  
29 Committee recommended that this be discussed further in the context of the inner  
30 agency review of Impact Taxes which the Planning Board has proposed that but that it  
31 was not right for discussion this year since it hadn't been clearly proposed early and had  
32 not received any discussion, public discussion.

33  
34 Council President Praisner,  
35 On the geographic issue? Councilmember Knapp.

36  
37 Councilmember Knapp,

38 Thank you. One of the concerns I have is, this is where we get into a situation  
39 sometimes where we have kind of competing policies. So obviously on the one hand,  
40 one of the reasons for looking at the Impact Taxes is to say we want development to  
41 pay for itself or measurably so. And I appreciate and understand that. The other piece is  
42 that we have a master plan we want to implement as it relates to a community like  
43 Clarksburg that we want to have, kind of mixed use development all of those pieces.  
44 Have we done any economic analysis that shows the bearing of some of these rates on



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1 surrounding jurisdictions, location of retail activities or other commercial activities in  
2 Clarksburg relative to say somewhere like Urbana which if, if I'm a commercial  
3 organization looking at northern Montgomery, southern Frederick, and it's a 10 mile  
4 difference and I've got a dramatic cost differential, it is just as easy for me to go to  
5 Urbana as it is for me to go to Clarksburg. But that actually gets us hit twice because  
6 we've lost the firm and we've actually exacerbated our transportation issue because you  
7 are going to get more on 270 further to the north. And so I'm just kind of curious if we've  
8 done any economic analysis to see what the impact of these types of fee increases do  
9 generally. Or if there is some analysis that you can get us between now and next week.

10  
11 Karl Moritz,

12 Well actually we looked at numerous studies at the effect of Impact Taxes. And the  
13 overwhelming feeling or the overwhelming finding is that overall Impact Taxes have very  
14 little locational effect. Now the clear issue that you present, that a few miles away,  
15 there's a completely different jurisdiction. I can't recall an instance where one of our  
16 studies that we reviewed looked at that specifically. But overall, the results were very  
17 clear that, and the example I keep going back to really was in San Diego, where in order  
18 to discourage development in that rural area they enacted an \$80,000 Impact Tax and  
19 in fact, that development in the area accelerated. It had no effect. And partly it was  
20 because \$80,000 compared to the \$800,000 or million dollar home is very small.

21  
22 Councilmember Knapp,  
23 Sure.

24  
25 Karl Moritz,

26 And in fact, one thing we do want to keep clear here is that although the Impact Taxes  
27 that we are talking about are substantial increases over what the Impact Taxes were in  
28 the past, they are not huge related to the overall cost of doing business. I mean it's  
29 more clear. I have a lot more data showing how that is true with the housing. And we  
30 can see if we can scare up some stuff with the retail.

31  
32 Councilmember Knapp,

33 If you've got, I would appreciate it just because you are going to get a pretty clear  
34 contrast within roughly eight miles and we tend to, it will tend to exacerbate some issues  
35 and run counter to what I think, we want to try to do --, is going to run counter to even  
36 some of the things you guys are likely to approve in the plan of compliance if it has a  
37 heavy retail mixed use component of what's going to go in there if we can attract it  
38 because, just the numbers don't work. And I don't know.

39  
40 Council President Praisner,

41 Well, but Mike, there are similar kinds of issues with even less than eight miles. All you  
42 have to do is look at Prince George's and Montgomery County on the County lines in  
43 the east side of the County. So where you may or may not want activity to occur and



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1 where there is a different jurisdiction within a stone's throw, so the question is more a  
2 question, I mean it would be interesting to see.

3  
4 Councilmember Knapp,  
5 Sure.

6  
7 Council President Praisner,  
8 But it's not exclusively a Clarksburg issue.

9  
10 Councilmember Knapp,  
11 No, it's not at all.

12  
13 Council President Praisner,  
14 And it is cumulative perhaps, but still the point of what the dollar, total dollar amounts  
15 are and other rationale why people make the decisions that they do.

16  
17 Councilmember Knapp,  
18 Although the numbers are higher in Clarksburg relative to even in east County.

19  
20 Council President Praisner,  
21 Well.

22  
23 Councilmember Knapp,  
24 I mean, your absolute number.

25  
26 Council President Praisner,  
27 Yeah, we can always lower those back. [laughter].

28  
29 Councilmember Knapp,  
30 I just want to put it out there because you do have competing policy interests and I think  
31 it's important to put those pieces out there to talk about.

32  
33 Karl Moritz,  
34 And let me clarify that the, what I'm going to look at it, because I know I don't know the  
35 answer to it so I'm going to look at it is the retail part. And I think on the housing sides,  
36 the fact that you are talking about one to two, three you know, percent of the housing  
37 price isn't enough to.

38  
39 Councilmember Knapp,  
40 Right.

41  
42 Karl Moritz,  
43 I can tell you.



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1 Councilmember Knapp,  
2 I wasn't necessarily going there.

3  
4 Karl Moritz,  
5 Okay.

6  
7 Councilmember Knapp,  
8 But I think that as you try to look at how you put the commercial retail mix in to support  
9 that I think is where --.

10  
11 Council President Praisner,  
12 Well, that was part of why the Committee in talking about retail had some concerns  
13 about the impacts on retail and made the slight modifications that we did.

14  
15 Michael Faden,  
16 Or more than slight.

17  
18 Council President Praisner,  
19 More than slight I guess. It's all relative.

20  
21 Councilmember Floreen,  
22 Did you look at that with respect to office, other commercial?

23  
24 Council President Praisner,  
25 No, we were focused on the retail piece.

26  
27 Michael Faden,  
28 Those are all the issues on the Transportation Impact Tax.

29  
30 Council President Praisner,  
31 Right. Okay. Any other questions on that piece? Then let's move to the last piece which  
32 is the Recordation Tax where there is a difference of opinion as well. But with a  
33 Committee recommendation two to one with Councilmember, Council Chair  
34 Trachtenberg, the one was to go with the Planning Board's recommendations for an  
35 increase in the basic Recordation Tax rate and what we did though.

36  
37 Glenn Orlin,  
38 Council staff's.

39  
40 Council President Praisner,  
41 I mean Council staff's.

42  
43 Michael Faden,  
44 -- Planning Board recommendation.



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1  
2 Glenn Orlin,  
3 Lower than the initial --.

4  
5 Council President Praisner,  
6 Right, okay, I'm sorry. The Planning Board has had two recommendations. The  
7 Planning Board initially recommended increasing the basic Recordation Tax rate and  
8 the Planning Board then as newly constituted, no longer supports that increase in the  
9 basic Recordation Tax rate. The Council staff recommended a basic Recordation Tax  
10 rate increase that was less than the original Planning Board, but more than the current  
11 rates. Those appear on page 3 of your packet. Raising the basic Recordation Tax rate  
12 by \$1.60 per thousand, increasing the overall rate from \$6.90 to \$8.50 per thousand and  
13 then, in the conversations that we had, we received some comments from the realtors  
14 that said if there was, having seen the staff's recommendation, made a suggestion  
15 about raising the property sold dollar amount to more than \$600,000 as a  
16 recommendation rather than the \$500,000 that had originally been, that is in the law at  
17 this point. And then continuing the exemption for the first \$50,000 of sale price for owner  
18 occupied homes. The revenue allocation was the next issue that we discussed as it  
19 relates to, should the new money be earmarked for schools or as our taskforce on  
20 infrastructure financing recommends, assigning the new allocation to County projects.  
21 The Committee recommended retaining the current allocation raised, but not  
22 earmarking any of the new revenue at this point. And also inconsistent with the realtors'  
23 recommendation have suggested or recommending applying the new rates for any  
24 transactions after March 1st of 2008. Council, Vice-President Knapp.

25  
26 Councilmember Knapp,  
27 Thank you Madam President. I think that the right move is to actually increase the  
28 number of the price of the home. And I think that makes sense. I guess one of the  
29 questions I would ask is, I forget which document I looked at over the last week, but that  
30 shows how quickly home prices have increased in the last seven years. If there might  
31 be a need for us to even put some type of index in there that would keep that, since we  
32 know that this is one of the marginal costs that can keep people from being able to  
33 afford a home. Do we want to keep some, have some type of indexing there that says if  
34 home prices continue to escalate that we keep some of the appropriate scale that we're  
35 trying to address as opposed to putting in an absolute number and see if we can take a  
36 look at that when we come back next week so that we don't end up, otherwise you still,  
37 you end up right back where you were if the market comes back or a number of things  
38 begin to occur. And so that'd be something I'd like to see if we get some information, I  
39 just want to know who the right person -- ask.

40  
41 Michael Faden,  
42 We can check on--.

43  
44 Council President Praisner,



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1 -- can do that.

2  
3 Michael Faden,  
4 We can work that through.

5  
6 Councilmember Knapp,  
7 Okay.

8  
9 Council President Praisner,  
10 Councilmember Floreen.

11  
12 Councilmember Floreen,  
13 Thank you. Right now with the Recordation Tax, there is a base amount that goes into  
14 the operating budget.

15  
16 Michael Faden,  
17 Right. Yes.

18  
19 Glenn Orlin,  
20 \$4.00.

21  
22 Councilmember Floreen,  
23 \$4.00.

24  
25 Michael Faden,  
26 The first \$4.40 per thousand, that's the pre 2002 level of the tax, goes into the general  
27 fund. It can be used in any way.

28  
29 Councilmember Floreen,  
30 And right now there is how much that goes to the schools and the community college?

31  
32 Michael Faden,  
33 Right now, the next \$2.50, the total rate is \$6.90 per thousand, the next \$2.50 is  
34 allocated under law passed in 2002 for MCPS capital projects and college information  
35 technology projects.

36  
37 Councilmember Floreen,  
38 And there's some sort of understood allocation between the two of them?

39  
40 Glenn Orlin,  
41 No.

42  
43 Council President Praisner,  
44 No.



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1  
2 Councilmember Floreen,  
3 It's just --.  
4  
5 Michael Faden,  
6 It's CIP to CIP.  
7  
8 Glenn Orlin,  
9 Whatever you decide is --.  
10  
11 Councilmember Floreen,  
12 Whoever gets to the bank first?  
13  
14 Council President Praisner,  
15 Whatever we decide as a source of funding for the projects. But there is no distribution  
16 to the college directly.  
17  
18 Councilmember Floreen,  
19 Okay. So, the Committee recommended that, well, the staff recommends that you add  
20 another \$1.60 to schools?  
21  
22 Council President Praisner,  
23 No.  
24  
25 Michael Faden,  
26 Well, the Committee didn't go with staff's recommendations.  
27  
28 Councilmember Floreen,  
29 I know but I'm asking what the staff.  
30  
31 Michael Faden,  
32 We recommended another.  
33  
34 Councilmember Floreen,  
35 \$1.60 to schools.  
36  
37 Michael Faden,  
38 Another \$1.60 to schools and then.  
39  
40 Councilmember Floreen,  
41 MCPS and the college?  
42  
43 Michael Faden,  
44 Right. Same.





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1  
2 Councilmember Floreen,  
3 And then at a higher increment level, add an additional \$1.50 to go to government,  
4 County government infrastructure type things.

5  
6 Michael Faden,  
7 Right. Right.

8  
9 Councilmember Floreen,  
10 Just to, that's I think what you are saying on page 16.

11  
12 Michael Faden,  
13 Right, exactly.

14  
15 Councilmember Floreen,  
16 And the infrastructure taskforce identified this as a priority as well?

17  
18 Council President Praisner,  
19 Correct.

20  
21 Councilmember Floreen,  
22 They, as I recall, they recommended that all increases go to --.

23  
24 Council President Praisner,  
25 General government, County government.

26  
27 Councilmember Floreen,  
28 Government infrastructure.

29  
30 Glenn Orlin,  
31 County government projects.

32  
33 Council President Praisner,  
34 County government infrastructure. Capital projects.

35  
36 Councilmember Floreen,  
37 Okay capital projects.

38  
39 Michael Faden,  
40 Right.

41  
42 Councilmember Floreen,  
43 Okay.



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1 Glenn Orlin,  
2 That was their charge, of course.  
3  
4 Councilmember Floreen,  
5 Well, of course. But the idea.  
6  
7 Council President Praisner,  
8 But they didn't have to come up with the Recordation Tax.  
9  
10 Glenn Orlin,  
11 No, no, their charge was to -- whatever they come up with.  
12  
13 Council President Praisner,  
14 Charge was to look at County government infrastructure.  
15  
16 Glenn Orlin,  
17 That's right. That's right.  
18  
19 Councilmember Floreen,  
20 [inaudible]. So that, -- okay. Just so I understand. So it would be, if we were to look at  
21 the Council staff proposal as adjusted by this new base, you could, one approach would  
22 be to keep the additional MCPS addition and then for anything above \$600,000 add an  
23 increment of \$1.50 to go to general County infrastructure?  
24  
25 Michael Faden,  
26 Sure.  
27  
28 Councilmember Floreen,  
29 County infrastructure.  
30  
31 Michael Faden,  
32 Sure.  
33  
34 Councilmember Floreen,  
35 Okay. Well I just wanted to make sure, I would like to make sure that that is on the table  
36 for discussion next week.  
37  
38 Michael Faden,  
39 I think all --.  
40  
41 Council President Praisner,  
42 That's, right --.  
43  
44 Councilmember Floreen,



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1 That's the staff approach, it's not the Committee.  
2  
3 Council President Praisner,  
4 Well, the, actually, the Committee's approach is not to add more to schools. That's the  
5 only difference.  
6  
7 Michael Faden,  
8 Right. And not to allocate.  
9  
10 Council President Praisner,  
11 And not to go as high as.  
12  
13 Councilmember Floreen,  
14 Oh. Okay. So let's be, I'm sorry. I was focusing incorrectly on that. So the Committee's  
15 recommendation is --.  
16  
17 Council President Praisner,  
18 Is to make it.  
19  
20 Councilmember Floreen,  
21 Is an attempt to add \$1.60 and then --.  
22  
23 Michael Faden,  
24 \$1.50 on the amount over \$600,000.  
25  
26 Council President Praisner,  
27 Over \$600,000.  
28  
29 Councilmember Floreen,  
30 But without regard to where it went.  
31  
32 Michael Faden,  
33 Right.  
34  
35 Council President Praisner,  
36 Right.  
37  
38 Michael Faden,  
39 The idea --.  
40  
41 Councilmember Floreen,  
42 And how --.  
43  
44 Council President Praisner,



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1 More flexibility.

2  
3 Councilmember Floreen,  
4 But not particularly focused on infrastructure.

5  
6 Council President Praisner,  
7 Well, the point was made in the Committee that, excuse me, by reducing the, by going  
8 from 500 to 600, you actually have an effect on the existing Recordation Tax revenue  
9 because of the increment. You are applying the increment to a higher number.

10  
11 Glenn Orlin,  
12 It doesn't have any effect on the base.

13  
14 Council President Praisner,  
15 Well, it has an impact on how much you get from the increment if you change 500 to  
16 600.

17  
18 Glenn Orlin,  
19 Yes. That last --.

20  
21 Michael Faden,  
22 Yes. Yes. [multiple speakers].

23  
24 Councilmember Floreen,  
25 That increment yeah.

26  
27 Council President Praisner,  
28 Right. That increment.

29  
30 Councilmember Floreen,  
31 But the basic, okay but the Committee's recommendation was not to allocate these  
32 increases --.

33  
34 Council President Praisner,  
35 At this point in time.

36  
37 Councilmember Floreen,  
38 To anything at this point in time.

39  
40 Council President Praisner,  
41 At this point in time.

42  
43 Councilmember Floreen,  
44 Okay.



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1  
2 Council President Praisner,  
3 Given some of the discussion that we had – .

4  
5 Councilmember Floreen,  
6 Would you anticipate a point next week?

7  
8 Council President Praisner,  
9 Well, no. You might want to do that at some other point. The point was made – .

10  
11 Councilmember Floreen,  
12 When would it be – that might be?

13  
14 Council President Praisner,  
15 Let me make two points. One, the Recordation Tax does not have to be done in the  
16 context of the Growth Policy.

17  
18 Glenn Orlin,  
19 Right.

20  
21 Council President Praisner,  
22 Number two, the comments made by our Committee Chair, and I'm sorry Duchy isn't  
23 here, but she did not support making the change at this time, which is, I think, consistent  
24 with the County Executive's position. Part of the comment that she made was a concern  
25 about its impact on transactions, but her second concern was the fluidity of issues given  
26 the state and our operating budget in a variety of issues in which point, at which point  
27 the Committee majority said, well let's keep some fluidity at this point, we can always  
28 make those judgments later on after we know what the state might be in a variety of  
29 these issues.

30  
31 Glenn Orlin,  
32 In other words, you could use it all for the operating budget, you could use part of it for  
33 PAYGO, you could use part of it, all of it for PAYGO.

34  
35 Council President Praisner,  
36 You could use it for new infrastructure. That is, keep your options open at this. [multiple  
37 speakers].

38  
39 Councilmember Floreen,  
40 Okay so--.

41  
42 Council President Praisner,  
43 Keep your options open.



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1 Councilmember Floreen,  
2 We don't need, we don't necessarily even have to approach this.

3  
4 Council President Praisner,  
5 Act on this today or next week.

6  
7 Councilmember Floreen,  
8 A question I had that I didn't see discussed, because there is a concern about  
9 affordability, did anyone give any thought to increasing the base from \$50,000, which is  
10 currently exempt?

11  
12 Council President Praisner,  
13 No, we didn't discuss that.

14  
15 Michael Faden,  
16 The Committee didn't, it was mentioned, but the Committee never, nobody ever  
17 proposed it in Committee.

18  
19 Council President Praisner,  
20 Roger.

21  
22 Councilmember Floreen,  
23 Well, I, Mr. Berliner, did you have some thoughts on this subject?

24  
25 Councilmember Berliner,  
26 To respond precisely to your question, yes it was considered, yes it was explored,  
27 raising the exemption from \$50,000 to \$100,000.

28  
29 Councilmember Floreen,  
30 Yeah, yeah.

31  
32 Councilmember Berliner,  
33 Was specifically explored and Ms. Barrett to her credit, but provided us the numbers  
34 with respect to that and shared with us the numbers were something on the order of \$8  
35 to \$9 million.

36  
37 Jennifer Barrett,  
38 I don't think it was ever shared with the full Committee because the --.

39  
40 Councilmember Berliner,  
41 No. [multiple speakers]. Lost as a function of that and so you could. [multiple speakers].  
42 Out of a \$30 million increase that would otherwise come about as a function of the  
43 Recordation Tax approximately less than one-third of it would have been lost by virtue  
44 of increasing the exemption from \$50,000 to \$100,000.



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1  
2 Councilmember Floreen,  
3 So it would go to --.

4  
5 Councilmember Berliner,  
6 [inaudible]. No, no, no. I'm sorry. Understand that we are talking about two different  
7 things.

8  
9 Unidentified  
10 Right.

11  
12 Councilmember Berliner,  
13 We did go to the \$600,000 number which I believe cost us something on the order \$1  
14 million in terms of lost revenue.

15  
16 Council President Praisner,  
17 Right.

18  
19 Councilmember Berliner,  
20 And --.

21  
22 Council President Praisner,  
23 Well.

24  
25 Councilmember Floreen,  
26 Right.

27  
28 Councilmember Berliner,  
29 Lost revenue from the proposal without such a cap. In comparison if you will to the staff  
30 recommendation which was \$500,000, raising from \$500,000 to \$600,000, resulted in a  
31 net reduction of a million dollars in revenue that would otherwise come to the County.

32  
33 Councilmember Floreen,  
34 But it does go to the affordability issue.

35  
36 Councilmember Berliner,  
37 It does go to the affordability issue. So the Committee adopted that, I did not propose  
38 the other as a function of the numbers in my judgment being too high to justify.

39  
40 Councilmember Floreen,  
41 Well, okay. I would like to see those numbers, or at least, if we are going to take this up,  
42 I'm not sure if we are or not.

43  
44 Council President Praisner,



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1 Yeah we are.

2  
3 Councilmember Floreen,  
4 If we are, I would like to have a proposal on the table that showed raising it to \$100,000.

5  
6 Jennifer Barrett,  
7 To \$200,000?

8  
9 Councilmember Floreen,  
10 With the other Committee as, with the other elements of the.

11  
12 Council President Praisner,  
13 Okay. All right.

14  
15 Councilmember Floreen,  
16 Just to understand what that, what's been shared I guess with some of the members but  
17 not all.

18  
19 Council President Praisner,  
20 Okay.

21  
22 Councilmember Floreen,  
23 Thanks.

24  
25 Council President Praisner,  
26 Councilmember Andrews.

27  
28 Councilmember Andrews,  
29 Thanks. Well, first, I want to commend all the Committee members for their excellent  
30 work in presenting the issues before the Council. It's been very helpful, I think it has  
31 been a useful session and I think a lot of clarity has been added. I wanted to get an  
32 estimate too on the Recordation Tax in terms of what Councilmember Floreen asked  
33 for. But also what would be the effect, what would be the impact on the revenues if it  
34 was made progressive at both ends? More progressive at both ends. In other words,  
35 raising the exemption from \$50 to \$100,000 and only applying the increase in the  
36 Recordation Tax to homes over \$600,000, what would be the impact then on the net  
37 revenues from, I'd like to have that number for consideration.

38  
39 Council President Praisner,  
40 Okay. All right. Are there any other issues that we need to deal with?

41  
42 Glenn Orlin,





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1 Just to follow-up for Mr. Andrews, we are going to need to know from you now or soon,  
2 what rate you'd want to apply from \$600,000 higher. The staff's recommendation was  
3 \$1.50, but would you want a bigger rate than that?

4  
5 Councilmember Andrews,  
6 I was looking at the same rate that was recommended by the Committee.

7  
8 Glenn Orlin,  
9 Okay. [multiple speakers]. I don't know. Now, what you're saying is that you wanted to  
10 have a, okay, so you're saying an increment of \$1.60 and \$1.50, \$3.10 from \$600,000.  
11 Okay. Just needed to clarify that.

12  
13 Council President Praisner,  
14 Okay, the other comment, the only other comment I wanted to make is that as I said at  
15 the beginning, Councilmembers know and I want to make clear that next week we will  
16 take straw votes on each of these pieces in essence to see where the majority of the  
17 Council is on each item in order to provide guidance for staff in the development of the  
18 resolution which we will act on November 6th. As has been said in the past in 2005,  
19 Councilmembers or there was a straw vote to develop a resolution which Council staff  
20 brought back for action the next week as a resolution. It was not, it was the first time the  
21 Council saw the resolution in that form and it did not receive the five votes it needed for  
22 adoption. What I have asked staff to do for the packet is to incorporate the resolution as  
23 well. So that Councilmembers can see the resolution and I know these are moving  
24 targets because, to the extent Councilmembers make changes in the recommendations,  
25 it will, as straw votes, it will change sections of the resolution. But the resolution should  
26 be crafted as if it were the Committee recommendations except for the one place I  
27 believe where there is no Committee recommendation. The other request that  
28 Councilmembers have made will, obviously in the straw votes, will affect the resolution  
29 and I want as we work through the actions next week to be pointing to not just the action  
30 straw vote, but also to the language in the resolution that would be changed or modified  
31 or enacted, whatever it might be. Enacted if you accept the Committee  
32 recommendations. Modified if you make motions. The Committee's recommendations  
33 stand unless there are motions to change them. Okay. Councilmember Floreen.

34  
35 Councilmember Floreen,  
36 Yeah, I just wanted to comment. There are an awful lot of moving parts.

37  
38 Council President Praisner,  
39 Yes.

40  
41 Councilmember Floreen,  
42 To all of this.

43  
44 Council President Praisner,



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1 There sure are.

2

3 Councilmember Floreen,

4 Which may affect how we ultimately feel. I just wanted to make that comment. So I don't  
5 know if the straw vote is the best way to characterize it. I appreciate what we're trying to  
6 do.

7

8 Council President Praisner,

9 Well, that's what we have always called it.

10

11 Councilmember Floreen,

12 I know, but there, I mean, I don't know that we've, well, you have been around, you've  
13 been through this numerous times.

14

15 Council President Praisner,

16 Well, you have been through it twice.

17

18 Councilmember Floreen,

19 I know.

20

21 Council President Praisner,

22 On this side of the table.

23

24 Councilmember Floreen,

25 But what's different, I think is the number of subset votes that are relevant. So I just  
26 wanted to make the point that, you know, you can agree and agree and agree and – .

27

28 Council President Praisner,

29 We are going to take.

30

31 Councilmember Floreen,

32 Hit the wall or not.

33

34 Council President Praisner,

35 Well, we're going to take a final vote next week as a straw vote as well.

36

37 Councilmember Floreen,

38 Okay.

39

40 Royce Hanson,

41 Madam President, I just want to make sure that if there are elements that, or comments  
42 that you want back from the Board, and we'll try to get those to you Friday.

43

44 Council President Praisner,



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1 That would be helpful.  
2  
3 Royce Hanson,  
4 Because we can talk about them Thursday.  
5  
6 Council President Praisner,  
7 That would be very helpful.  
8  
9 Royce Hanson,  
10 One is the Board's response to both the Committee and to Councilmember Berliner's  
11 proposed modification to the PAMR scale. The other thing that was a piece of  
12 information that has been asked for was some estimate or showing of what the effect or  
13 what the total tax and fee charges would be on sort of representative homes. And I'm  
14 trying to think if there was -- .  
15  
16 Karl Moritz,  
17 We had the maps that showed the schools test.  
18  
19 Royce Hanson,  
20 The maps.  
21  
22 Karl Moritz,  
23 And the retail analysis.  
24  
25 Glenn Orlin,  
26 We have a whole list of things.  
27  
28 Royce Hanson,  
29 --of intersections.  
30  
31 Councilmember Knapp,  
32 We'll follow-up tomorrow. [multiple speakers].  
33  
34 Council President Praisner,  
35 Glenn and Mike I assume you have a list.  
36  
37 Councilmember Knapp,  
38 Taking out the Corridor Cities Transit Way and taking out the inner Purple Line.  
39  
40 Council President Praisner,  
41 Well, those were the --.  
42  
43 Karl Moritz,  
44 Counted and I apologize. [multiple speakers].



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1  
2 Councilmember Berliner,  
3 Assuming you will also present back to us a revised chart that reflects what happens  
4 with those things out.  
5  
6 Karl Moritz,  
7 Yes. And probably, well, we'll check because if 2011 took all those things out that you  
8 had questions about already but we will give you a list of what we did include so you.  
9 Okay.  
10  
11 Unidentified  
12 Thank you.  
13  
14 Council President Praisner,  
15 Thank you all very much. I hope this has been helpful, at least in moving us through the  
16 process. We are adjourned.  
17  
18